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GENERAL HEADINGS.

Cases Reported this Week.

Current Topics.

The King's Speech.

UNDER EXISTING circumstances it is hardly likely that the King's Speech can be regarded as a reliable forecast of the work of the first Session of the new Parliament, and comment upon it can be brief. The greater part is concerned with political matters which are outside our scope. We except the reference to the League of Nations, which we have taken the liberty to treat as a question of law as much as of politics, and we note with satisfaction the statement of intention to support by every practicable means "the steady growth and influence of the League of Nations." It is interesting to note, also, the reference to a conference to be summoned to arrive at an agricultural policy, to be agreed by all political parties, for maintaining the acreage of arable land and regular employment at an adequate wage for the agricultural worker.

The Law of Property Consolidation Bills.

THE PASSAGES in the King's Speech dealing specifically with projected legislation are the following:—

> "You will be asked to develop the probationary system of dealing with offenders. Bills will be introduced to amend and consolidate the Factory and Workshop Acts, to legitimize children born out of wedlock whose parents have subsequently married, and to amend the law relating to separation and maintenance orders."
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> "Preparations have also been made for measures dealing with the property and endowments of the Church of Scotland, the improvement of the road traffic of London, for the reform of the system of valuation and rating in England and Wales, and of rating in Scotland, for the improvement of the administration of civil and criminal justice, for making valid certain charges imposed during the War, and for the ascertainment of costs and profits in connection with the distribution of milk."

In the main the programme represents legislation which was left over from the last Parliament. Much of it—the Civil and Criminal Justice Administration Bills in particular—was to have been the work of the Autumn Session, had this not been lost. But there is no reference to the Law of Property Consolidation Bills, and there has been no publication yet of any information as to the progress which Mr. Justice ROMER'S Committee is making with the consideration of them. Nor have the Bills themselves been

published, and the profession is kept in the dark as to what is to happen next January when the Law of Property Act, 1922, with its profound changes in the system of conveyancing, is fixed to come into force. No doubt the Council of the Law Society know what is going on, but it is surely very unusual for projected legislation of such importance as the Consolidating Bills to be kept secret.

Law Officers and Politics.

IT HAPPENS from time to time that a political party is weak in the talent from which the legal departments of the Government are recruited. It was so with the Whigs in 1832, when, for want of a better choice, Sir WILLIAM HORNE was made Attorney-General, only to be in effect shelved and supplanted by CAMPBELL, the Solicitor-General. The Whigs were said at that time to be "suffering the last straits of famine for want of legal talent." A somewhat similar position appears likely to arise in the event of the new political party coming into office. It does, indeed, seem that they will be able to lay hands on an Attorney- and Solicitor-General, and Mr. PATRICK HASTINGS is not likely to suffer the fate of Sir WILLIAM HORNE; but the appointments suggested by the Press—Mr. HASTINGS and Mr. SLESSER—appear to exhaust the lawyers of the Labour Party available for the posts.

The Office of Lord Chancellor and a Minister of Justice.

MORE INTEREST attaches to the probable selection for the Lord Chancellorship. In this connection we do not propose to mention any names, and we do not suppose that there will be any difficulty in making a suitable appointment. It does not appear, however, that there are any judges or lawyers of the necessary distinction who are strictly members of the Labour Party, however much the sympathies of some of them may incline in that direction. To suggest that on the present occasion—if the occasion in fact arises—the Lord Chancellor should be divested entirely of political connection would, perhaps, be futile. A change so important, if it is ever made, is not likely to be made in a hurry to facilitate the formation of a Ministry. It may, however, not be out of place to suggest that any appointment now to be made may be a step in the direction of relieving the Lord Chancellor of part of the multifarious duties which successive holders of the office—except Lord BIRKENHEAD—have admitted to be too important and numerous to be performed effectively. This would place him at the head of the judicial system, while much of his miscellaneous work would pass to the Home Secretary, as Minister of Justice. The scheme has been frequently advocated and has the authority of the Machinery of Government Committee of 1918, of which Lord HALDANE was Chairman: see 63 SOL. J., p. 187, and the detailed recommendations of the Committee at pp. 196, 217. We may add that attention is called to the Report, though not specially to its recommendations as to Justice, in a letter by Lord ESHER, to which prominence is given in *The Times* of the 15th inst.

A Link with Lord Cottenham.

THE SUGGESTIONS for the redistribution of the functions of the Lord Chancellor are by no means new. A scheme of a similar kind was introduced in the House of Lords by Lord COTTENHAM in 1836, founded, to some extent, on a memorandum by BICKERSTETH, afterwards Lord LANGDALE. But the Bill was badly received—LYNDHURST was a keen opponent—and was thrown out by ninety-four votes to twenty-nine. Lord COTTENHAM it may be remembered, was a PEPYS—CHARLES CHRISTOPHER PEPYS, the second son of Sir WILLIAM PEPYS, a Master in Chancery and a member of Dr. JOHNSON'S circle. The name is recalled by the death of Mrs. WINNINGTON INGRAM, the mother of the Bishop of London, last week. She was the elder daughter of HENRY PEPYS, Lord COTTENHAM'S brother, who became Bishop of Worcester. SAMUEL PEPYS, the diarist, was of the same family. The genealogy is given in ATLAY'S "Victorian Chancellors," Vol. I, p. 379. Lord COTTENHAM'S career at the Bar, although slow at first, was very successful, and politically he was, as Mr. ATLAY says, the spoiled child of fortune. On the sudden death of Sir JOHN LEACH, in 1834, he, to CAMPBELL'S great disappointment, succeeded as Master of the Rolls, only to be transferred, almost by accident, to the Chancellorship about a year later. The reputation of Lord COTTENHAM, who held the Chancellorship twice, rests rather on the excellence of his judgments than on his Parliamentary services, and in his time the system of company jurisprudence was beginning to take shape.

The late Sir Richard Muir.

MOST UNEXPECTED and indeed untimely was the sudden death, following on an attack of influenza, of Sir RICHARD MUIR, which occurred last Monday. This distinguished doyen of our public prosecutors was only sixty-six years of age, which is comparative youth at the Bar, and had seemed only a few days before at the very acme of strength and vigour. Sir RICHARD will be generally mourned for he was the best type of Treasury counsel: grave, dignified, genial, and always scrupulously fair to the accused. A Scotsman by birth, he early realized the truth of Dr. JOHNSON'S sarcasm that "the finest prospect a Scotsman ever sees is the high road which leads him to England." When still quite young he came to London as a journalist, and after a brief career as a reporter in the Gallery of the House of Commons abandoned the Press for a successful practice at the Old Bailey. The President, Sir HENRY DUKE, and Sir EDWARD CLARKE, it will be recollected, have shared with Sir RICHARD MUIR the benefits of an early training as reporters in the Press Gallery. Reading with Sir FORREST FULTON, MUIR at once became connected with Treasury work at the Central Criminal Court; he soon became a junior counsel and fought his way up to the position of senior—there are some six in all—which he has held for nearly twenty years. His accurate knowledge of criminal law, his remarkable lucidity, his thoroughness in the mastery of detail, his unwearied persistence as a cross-examiner—these were the qualities that won him high success with juries. He was scrupulously fair as an advocate and remarkably judicial in the form and manner of the speeches in which he summed up the case for the Crown. Free from the dangerous love of victory for victory's sake he never pressed his case unduly against the accused, and was well content to see a verdict of acquittal whenever a shadow of doubt existed. Unquestionably his high conscientiousness has done much to raise the public esteem of Old Bailey practitioners.

The Changed Tradition of Old Bailey Practice.

THE FORTY-ODD years during which Sir RICHARD practiced saw an immense change in the position and character of the Old Bailey Bar. Half-a-century ago, it must frankly be admitted, an Old Bailey practitioner was not generally admired elsewhere in his profession; he was expected to prove tricky, unscrupulous, and an exponent of a very vulgar type of oratory which appealed to the coarsest form of mob sentiment among uneducated juries. Now all this is changed. To-day the Old Bailey ranks with the Circuits in the respectability of its advocates, their reputation for skill and learning, the dignity and restraint of their common-sense, and their businesslike forensic style. Like most reformations, this change has been due in the main to the admirable example set by the Treasury counsel and especially by the foremost among them. That splendid nonagenarian, Sir HARRY POLAND, who is still spared to us and who takes an active part on the side of humane reform whenever the Press discusses controversial issues of Criminal Law, was the first leader of the Old Bailey Bar to set the new and improved tradition. He was ably seconded by Sir CHARLES HALL, Sir FORREST FULTON, and Sir CHARLES MATHEWS, who all in turn became either Recorders of London or Director of Public Prosecutions. Sir RICHARD MUIR, too, followed in the footsteps of these distinguished men and the Treasury counsel of to-day are all men of a similar stamp. The changed tradition, too, was accidentally assisted by the demolition of the gloomy and sordid Old Bailey building in Newgate Street, whose dungeon-like aspect seemed to say "Abandon hope all ye who enter here," and the erection, not quite a score of years ago, of the present handsome

and commodious buildings. As in so many other spheres of life, the physical environment of the Old Bailey Bar has had a far-reaching moral effect as well.

Felonies and Misdemeanours.

SINCE REFERENCE has been made above to Sir HARRY POLAND, attention may be called here to the latest Press crusade for criminal reform upon which that veteran has entered. Sir HARRY, in a recent letter to *The Times*, 13th Nov., pointed out that the old distinction between misdemeanours and felonies is now obsolete, yet it remains to vex criminal procedure with its fine distinctions in the form of indictments, the modes of challenging juries, the liabilities of abettors. In early English Common Law the distinction was great and important. Felonies, then, were heinous crimes against the natural rights of men, such as murder, rape, robbery, larceny: they were punished capitally and led to forfeiture of the convict's chattels. Misdemeanours, on the contrary, in their origin were merely criminal "breaches of the King's Peace": *e.g.*, libel was the crime of defaming another in such a way as to provoke a breach of the peace, the reason why "truth" is no defence unless the libel is in the public interest. Gradually, however, this distinction lost all meaning, since new statutes creating a host of new offences made them felonies or misdemeanours according to the whim either of Parliament or of the draftsman. The absurd distinction between "clergyable" and "non-clergyable" offences added to the anomaly. The Criminal Law reforms of ROMILLY, MACKINTOSH, BROUGHAM, and PEEL, have long ago got rid of the absurd disproportion between the punishment of felonies and misdemeanours as such, so that the still existing differences of form remain a mere anomaly.

Transfer of Shares by an Executor to Himself.

MR. HARGRAVES was good enough to correct last week, *ante*, p. 273, the error into which we fell in considering his letter of the week before, *ante*, p. 250, and Mr. F. D. HEAD, also, in the Secretaries' Column which he conducts in *The Financier* (11th inst.), which Mr. W. H. RUSSELL, of Cheltenham, has sent us, points out the error. The error, however, as is often the case, was useful as emphasising the real point for consideration. An executor's or administrator's first step is to register the probate or letters of administration. He has then the choice, under Art. 22 of Table A, or the corresponding article usual with companies which do not adopt Table A, of being either registered as a member or of transferring the shares. In our observations we assumed that the executor had been registered as a member with the addition of a reference to his character as executor. This assumption was wrong. He had only registered the probate and the name of his testator remained on the register as member. If, then, he adopts the first alternative, he has to do no more than lodge with the company a request to place his name on the register as member in respect of the shares in lieu of the name of the testator. We gather that Mr. HEAD agrees with this view and he says that the ordinary means by which an executor becomes a member of a limited company is by letter of request, either stamped sixpence or without any stamp; though we do not see why a stamp is required. Mr. HARGRAVES says that the request for registration is an agreement to be bound by the articles, but the executor becomes bound by being placed on the register. It also appears from a letter from Messrs. BLAIR & SEDDON, of Manchester, to Mr. HARGRAVES, of which he has sent us a copy, that the question arose before the Vice-Chancellor of the Lancaster Chancery Court in 1908, in a case where the company had refused to register an executor individually on his request, and had demanded a transfer from him as executor to himself individually. The executor moved for rectification of the register. The Vice-Chancellor ordered that the company should register the executor without qualification and that the company should pay the costs of the motion. This seems to settle it. We hope Messrs. BLAIR & SEDDON will pardon the use we make of their name and letter.

Death Certification.

WE SEE from last week's *Lancet* that an agreed Bill on Death Certification has been drafted by a committee convened by the Federation of Medical and Allied Services. At present it is possible for a doctor to give a certificate of death without having seen the body: this leaves room for certification on insufficient information, and there is also the risk of foul play passing without detection. This was pointed out by the Select Committee on the subject in 1893, and our contemporary recalls a remarkable trial at Edinburgh six years ago, when two women were charged with thus defrauding insurance companies between 1912 and 1917, "There were some strong judicial remarks when the judge discovered that the Births and Deaths Registration Act did not prevent a doctor from certifying death without seeing the body." Two Bills were introduced last year—Major L. MOLLOY's Coroners' Law and Death Certification (Amendment) Bill and Dr. A. SALTER's Deaths Registration and Burial Bill—but did not make any progress. It is now proposed to shorten from five to two days the period within which information of the death must be given to the registrar, and the fact of death is to be certified by a registered medical practitioner who has viewed or examined the body and is satisfied that life is extinct. If possible this will be done by the doctor who last attended the deceased; if this is not possible, the person whose duty it is to notify the death must inform the registrar, and the registrar within twenty-four hours must inform the coroner, who will then appoint a doctor for the purpose. The intervention of the coroner, however, at this stage, will no doubt be subjected to criticism. The cause of death is to be certified in the same way. There are further provisions of the Bill, including provisions that human remains are not to be disposed of except upon the authority of a registrar's death certificate or of a coroner's order, and an official classification of diseases is to be adopted by doctors in their certificates as far as possible. There have been suggestions for abolishing the office of coroner, and relying instead on inquiries by local authorities, assisted by medical officers of health. Scotland appears to get on without coroners, but they are perhaps the oldest judicial officers in England. We doubt whether the proposal will find favour. A Bill consolidating the law of coroners was promised last session and will, we presume, be proceeded with.

Security for Costs and Irish Litigants.

A LEARNED correspondent has drawn our attention to what certainly seems a very curious oversight on the part of all concerned in deciding *Wakely* v. *Triumph Cycle Company, Limited*, reported *ante*, p. 117, and commented on *ante*, p. 73. In that case Mr. Justice RIGBY SWIFT and the Court of Appeal had in turn to consider some rather complicated provisions of three statutes, namely, the Judgments Extension Act, 1868, the Government of Ireland Act, 1920, and the Irish Free State (Consequential Provisions) Act of 1922. The first-named statute provides by its first section that a judgment obtained in England can be enforced in Ireland, and *vice versâ*. The Government of Ireland Act, 1920, provides in s. 41, s.s. (3), that the Judgments Extension Act, 1868, is to apply to the registration and enforcement in the Supreme Court of the two Provinces of Southern and Northern Ireland (created by that Act) of judgments obtained or entered in the Supreme Court of Northern or Southern Ireland respectively, in the same manner as it applies to the registration and enforcement, in the Supreme Court of Judicature in Ireland, of judgments obtained in the Supreme Court of England. And, finally, s. 1 of the Irish Free State (Conseqential Provisions) Act of 1922, which received the royal assent on 5th December, 1922, enacts that the Government of Ireland Act, 1920, shall cease to apply to Southern Ireland. The question was whether the effect of these provisions is that the Judgment Extensions Act, 1868, had ceased to operate in Southern Ireland. If so, it follows from Rules of the Supreme Court, which it is unnecessary to summarize, that a plaintiff resident in the Irish Free State, suing in the English courts, may be treated as a person resident outside the United

Kingdom and required to give security for costs. The Court of Appeal, after considering a number of exceedingly intricate provisions in the schedules and other sections of the two latter statutes quoted above, the Home Rule Act of 1920, and the Second Free State Act of 1922, came to the conclusion that the Judgments Extension Act, 1868, while valid in Northern Ireland, no longer applies to Southern Ireland, so that a plaintiff resident in Ireland can be required in our courts to give security for costs.

The Irish Free State (Adaptation of Enactments) Order.

NOW, WHAT our correspondent points out is that, curiously enough, the same result could have been reached very simply and easily by reference to an Order in Council which apparently was not quoted in court at all. This is the Irish Free State (Consequential Adaptation of Enactments) Order, 1923, which was issued on the 27th March, 1923. This Order purports to be made under s. 6 of the Irish Free State (Consequential Provisions) Act, 1922, which empowers His Majesty in Council to make by Order in Council "such adaptations of any enactments so far as they relate to any of His Majesty's Dominions other than the Irish Free State, as may appeal to him necessary and proper as a consequence of the establishment of the Irish Free State" (see preamble). Now s. 2 of the Order expressly *excludes* the Irish Free State from the interpretation of any enactment of the Imperial Parliament passed before its establishment, which uses the expressions "United Kingdom" or "United Kingdom of Great Britain and Ireland," or "Great Britain and Ireland," or "Great Britain or Ireland," or "The British Islands" or "Ireland." This would seem to exclude s. 1 of the Judgments Extension Act, 1868, which refers to and deals with "Ireland." There is a Schedule to the Order excepting, for certain purposes, a large number of statutes; but the Judgments Extension Act is not one of those exceptions. Our correspondent would seem to be right in his view that the Court of Appeal could have arrived at the decision it eventually gave by a much shorter process than the elaborate route it actually travelled to reach that destination.

Further Consequences of the Order.

OUR CORRESPONDENT goes on to suggest, with great force of logic, that the Order in Council quoted has very far-reaching effects. It evidently applies to many other forms of procedure besides that of an Irish resident required to give security for costs in our courts. He mentions as possible results the abrogation of the reciprocal enforcement of judgments (as between Great Britain and Southern Ireland) provided for by Part II of the Administration of Justice Act, 1920, the attendance of witnesses under s. 18 (1) of the Arbitration Act, 1889, and the attendance of witnesses under the statute known as the Attendance of Witnesses Act, 1854, which provides for the issue of *subpœna* to witnesses in the United Kingdom, but outside the jurisdiction of the Supreme Court. Under ss. 1 and 2 as amended by the Jurisdiction Act, 1884, s. 16, such a writ of *subpœna* can be issued by leave of a High Court Judge to a witness in Scotland or Ireland. Certainly, as regards Southern Ireland, this power seems no longer available.

From *The Times* of 14th January, 1824: We recommend to notice a short letter signed "X.Y." on the vexations of the legacy-duty. On the first imposition of this unnatural impost, as few expected to be harassed by its regulations, but little opposition was raised: the experience, however, of upwards of twenty years has shown how deeply it penetrates into all the connections of society, and how painfully it affects all the relations of life. It perplexes the dying in his last moments, and the living on his entrance into the business of the world. Many of the rich (as the late Dr. Wynn, of the Commons, for example) elude its provisions by making donations of their property before their decease to those whom they wish to possess it; but the little bequests of and to the poor are absolutely converted into plunder, either directly or indirectly, through its means. . . . We sincerely hope for the speedy abolition of this odious duty, and shall never cease to reprobate it, so long as it continues.

The *Causa Proxima* of Inability to Earn.

IT has often been pointed out that the Workmen's Compensation Acts, although dealing with merely a very empirical remedy within an extremely narrow field of law, have given rise to extraordinarily subtle and fundamental problems. This is partly due to the fact that these statutes are very short, laying down in section and schedule vague rules which it has been left to the courts to apply. It is also due in some measure to the character of the task left to the court by the statute, namely, the ascertainment of the limits within which an injury is in law deemed to be "caused" by an event. In other words, it raises the familiar problems of *causa proxima, causa causans, causa sine quâ non* which the scholastic philosophy bequeathed to English Common Law as well as to the Law Merchant. The way in which these issues may arise is neatly and usefully illustrated by the important recent case, a Scots appeal to the House of Lords, of *Portland Colliery Co., Ltd.* v. *Murray; John Watson, Ltd.* v. *Quinn; William Dixon, Ltd.* v. *Maddox*, 1923, A.C. 566.

These three appeals were, in fact, heard together, for they illustrate with instructive variety of circumstance one single common principle. The point always was this: Under the Workmen's Compensation Act, 1906, First Schedule, paras. 1 (*b*), 3, 16, a workman who suffers from "partial" incapacity which is "caused" by a statutory accident [*i.e.*, one so arising out of and in the course of his employment as to impose on his employer a statutory liability to pay him the compensation assessed under the Act] is entitled to receive compensation or light work which he can do at a basis fixed by the statute. In each case a workman so receiving compensation or light work at an arranged wage found himself in such a position, owing to the slump in trade and consequent unemployment and drop in rates of wages, that there either was no work available for him, or his earnings at such work fell below the basis of compensation. In such circumstances, does his right to claim a re-assessment of compensation revive? Or is he to be left *in statu quo* on the ground that his new plight is *not* the result of the accident, but would have happened to him in any case had there been no accident? In other words, is a partially incapacitated workman to be insured and protected against unemployment, at the expense of the employer, in a way which he would not have been protected had he never suffered any accident? It was this question which the House of Lords answered in favour of the workman's privilege to stability of compensation in such circumstances, but it is undeniably a difficult one in point of logic. For it turns on the simple, albeit subtle, issue, whether it is the original accident or the novel stringency of the labour market which is the *causa vera* of the workman's present inability to earn.

Since questions of this sort are difficult to follow when stated in abstract terms, it will be convenient to summarize very shortly the salient facts in all three cases; this ought to make the issue clearer. In *Portland Colliery Company, Ltd.* v. *Murray, supra*, the facts were these: In 1917 a miner sustained injury to his leg by a statutory accident. The leg was permanently shortened so that he needed the aid of a stick in walking and obviously was unfitted for any except light work. He was paid compensation, at first, on the footing of total incapacity for somewhat over a year; then he was given light work on the surface of the mine and received partial compensation—*i.e.*, compensation for the difference between the wages of a miner and the lower rate of wages obtainable by a surface worker. In 1920 an increase of the rate of wages payable to all workers in mines, surface or otherwise, caused the man's wages as a surface worker to exceed his pre-rate wage as a miner, although of course conditions of living had increased as well; but the employers thereupon claimed that he was no longer receiving a "less" wage than his pre-war wage, so that there was no longer any "difference" in respect of which he was entitled to compensation. In 1921 there was a national

strike in the mines, and the man became completely unemployed. He then took statutory proceedings for an arbitration by the Sheriff (*anglicé*, county court judge) and an award of compensation—not, of course, on the basis of total incapacitation but on the basis of partial incapacitation. The Sheriff took the *primâ facie* very plausible view that, as the man would presumably have been on strike, or else out of work as the result of a strike, had he never been injured at all, the injury was not the cause of his "inability to earn," and therefore he was not for the moment entitled to compensation. But he also held that, as soon as light work was once more available, he would be entitled to an award of compensation (unless he got work then), and this amount he fixed in anticipation. The legality of this latter course—assessment in anticipation of a hypothetical future event—is obviously a matter open to argument; but it was not decided, as the House of Lords affirmed the decision of the Court of Session which had reversed the Sheriff's decision on the main issue, and held that the miner *was* entitled to an award *in praesenti*, and not merely *in futuro*.

In the second case, *John Watson, Ltd.* v. *Quinn*, *supra*, the workman was also a miner, at first totally incapacitated and compensated on that footing, afterwards found to be permanently partially incapacitated and awarded the sum of 10s. 4d. per week *in perpetuo*, he receiving light labouring work on the surface as a wagon painter. In due course, as a result of post-war revision of rates, wages first went up so that a wagon-painter's wage exceeded the pre-war wage of a miner, and then fell again to a sum much below that rate. The employers here claimed that the workman's right to compensation for partial incapacitation ended when the wage rose to the higher level and never revived again, being extinguished once for all. Neither the Sheriff nor the Court of Session nor the House of Lords would entertain this contention for a moment. All decided, no doubt quite correctly, that the partial incapacitation, being of a permanent nature, gave a permanent right to compensation which was not destroyed by the accident of a rise in wages. It was pointed out that, in fact, such rise did not diminish the workman's *injuria*, since he would have shared in a still greater rise had he been able to do his old and better-paid heavy work.

In *William Dixon, Ltd.* v. *Madden*, *supra*, the workman was once more a miner. He, too, had been partially incapacitated by a statutory accident, an injury to his knee. He, too, was paid compensation at first temporarily for total incapacitation, and afterwards—without an application for an award—on the basis of partial incapacitation, he receiving light work. In due course similar circumstances to those in the other two cases resulted in the employers' refusal to pay further partial compensation, and he applied for an award. As a result of the award he was held entitled to partial incapacitation, based on the difference between his pre-war rate of earnings and his new earnings at light work—in this case, work in the lamp cabin. A rise of wages and a subsequent fall raised the same issues in his case as in the other two, and the arbitrator made him an award of 7s. 6d. per week on the ground of permanent partial incapacitation. This award the higher courts upheld.

Now in all these cases, disentangling the main issues from lesser ones as to precise measurement of the compensation payable for partial incapacitation, the fundamental problem is clear enough. A, B and C, in their several ways, are permanently subjected by a statutory accident to *partial incapacity to earn*. They are entitled to be compensated, on the statutory basis, for this partial incapacitation. Now, of course, the normal workman is never certain of permanent employment unless he has a job of an exceptional type, such as the Government service, or municipal service, or that of a public utility company. In ordinary employment he suffers a risk of occasional unemployment which is capable of statistical measurement. During such periods he is the victim of "incapacity to earn"—whether he is sound or unsound, has suffered an accident or not. It is therefore, at first sight, a tempting proposition of strict logic to hold, as the Sheriff did in the first of the three cases, that during such periods his "partial incapacitation" is due—not to the accident, but to the state of employment which is an essential condition of his vocation. There is a temptation to hold that an employer is not bound, under the statute, to insure a man against unemployment of which the statutory accident is in no sense the *causa proxima*. It is therefore not unnatural to take the view that an award for *partial incapacitation* is not necessarily continuous, but may be interrupted and cease whenever it can be shown that, but for the accident, the man would have been in all human probability unemployed in any event.

But there is a flaw in this logic. Applied to the case of total incapacitation, it is obviously rather monstrous; but it seems plausible in cases of partial incapacitation: *Cardiff Corporation* v. *Hall*, 1911, 1 K.B. 1009; *Ball* v. *Hunt*, 1912, A.C. 496; *Henson* v. *Ruston and Hornsby*, 1922, 15 B.W.C.C. 195. But the answer is that the workman is not bound down to one occupation; he might—but for his accident—have entered another less irregular; the *injuria* prevents him doing so and is therefore of a continuing nature. This view the Lords took, and the workman's right to permanent partial compensation in such a case is now finally established.

Purchaser's Liability for Interest when Completion Delayed.

III.

(*Continued from p.* 271.)

5.—Other than Default on the Part of the Vendor.
6.—Other than Default on the Part of the Purchaser.

It will be convenient to deal with these two headings together, because the cases on "default" apply equally to default on the part of a purchaser and on the part of a vendor.

The condition referred to in heading 5 is the condition which provides that the purchaser shall pay interest if the delay in completion arises from any cause whatever other than "*the default*" *of the vendor*; that is to say, the same condition as the one we have last been considering, except that the word "wilful" is omitted.

Heading 6 refers to the condition that the purchaser shall pay interest, unless the delay in completion shall arise from any cause other than the *neglect or default of the purchaser*. The condition occurs with many variations.

We have already referred to the definition of Lord Justice Bowen of the word "default" in *Re Young and Harston's Contract*, 1885, 31 Ch. 168, namely: "'Default' is a purely relative term, just like negligence—it means nothing more, nothing less, than not doing what is reasonable under the circumstances—not doing something which you ought to do, having regard to the relations which you occupy to the other persons interested in the transaction." The defect in this definition is that it does not define whether what has been done or omitted to be done must be *reasonable* from the point of view of the person (whether it be the vendor or the purchaser) doing or not doing a particular act. This point will be referred to when dealing with the case of *Bayley-Worthington and Cohen's Contract* later on.

The Court of Appeal in *Re Mayor of London and Tubbs' Contract*, 1894, 2 Ch. 524, made it quite clear that there was a distinction between the words "wilful default" and "default." In that case the vendor had not looked at his deeds before preparing the contract, and it was found out afterwards that there was a defect in the title, and this caused the delay in the completion of the purchase. Lord Justice Lindley said: "This was unquestionably a default, but in my opinion it was not wilful." Lord Justice Lopes said: "Admittedly the fault was not intentional; it was an oversight . . . it seems to me a perversion of the word 'wilful' to hold such a default wilful . . . there would be no distinction then between what was intentional and what was unintentional and accidental; both would be visited with the same consequences."

It has been suggested that the word "default" must be construed as meaning "wilful default" on the ground that this is the effect of the decision of the Court of Appeal in *Re Woods' and Lewis's Contract*, 1898, 2 Ch. 211. Certainly Lord Justice COLLINS did use rather strong words when he said that "'Default' implies an element of wrong, an element over and above mere failure to perform, not necessarily involving any dishonesty, but it does involve *conscious abstention from doing* what the vendor ought reasonably to have done." It is not thought, however, that he intended these words to be construed as deciding that there is no difference between the two expressions.

The facts of the case were that the vendor had omitted to detect and provide for a slight defect in his title, the putting right of which caused delay in the completion of the purchase. Lord Justice LINDLEY said that, if the appellant's counsel was right in saying that every omission by a vendor to detect and provide for every blot on the title was a default, then no doubt there would be a default in that case; but that if the history of clauses of that description were considered, and the way in which they had been dealt with by the courts, he did not think that that proposition could be maintained. Lord Justice CHITTY also said: "I mention this to meet the appellant's argument that default is equivalent to mere failure to perform the contract, that is, to mere failure to complete at the particular date, arising from a defect of title which he says was the cause of the default. In my opinion this is not so."

We now come to the important case of *Bayley-Worthington and Cohen's Contract*, 1909, 1 Ch. 648, which deals with the condition when expressed in the negative form—that is, that the purchaser shall not be called on to pay interest if the delay in the completion be not caused by his neglect or default.

Counsel for the purchaser contended that the authorities which deal with default by a vendor do not apply to default by a purchaser, but this contention was ruled out. The purchaser had made an objection going to the root of title and obtained a judgment in his favour, but such judgment had been finally reversed by the House of Lords. It was held by Mr. Justice PARKER that the delay caused by these proceedings was delay caused by the "default" of the purchaser within the meaning of the condition. The judge admitted that, having regard to the facts that the purchase money was very large in amount, that the land was required for building purposes, and that the purchaser's objection went to the root of title and raised a difficult point of law, he had acted honestly and reasonably for his *own protection* in refusing to complete before the question at issue had been set at rest by the decision of the House of Lords; but the judge considered that, however wisely the purchaser was acting in his own interests, he was guilty of default because he was committing a breach of his duty to the vendor.

There are some dicta in the judgment which it may be useful to make a note of, for instance, "A vendor is not in every case bound to know of a defect in his title; but he is bound to remove such defect if it be pointed out and it is in his power to remove it. If he proceeds with diligence to remove it when pointed out, he will not be guilty of default merely because completion has to be delayed pending such removal. If, however, he refuses to remove such defect when pointed out, I think he would be guilty of default." Again, "If the court decides that a requisition is untenable, it in effect decides that it ought not to have been insisted on, and, consequently that the purchaser was *in default* in refusing to complete till it was complied with. If, on the other hand, the court decides that the requisition was good, it in effect decides that the vendor was in default. The honest belief of either party in the validity of his own view will not prevent such party being in default, though it may prevent such default being 'wilful default' within the meaning of the contract in question."

7.—When the Purchaser is in Possession.

The purchaser may be in possession of the property purchased, either (*a*) as tenant of the vendor; or (*b*) under the terms of the contract; or (*c*) by arrangement with the vendor after the date of the contract and before completion, irrespective of the terms of the contract.

In case (*a*) the text-books agree that, in the absence of a condition to the contrary, the purchaser should pay interest from the date of the contract and not be accountable to the vendor for the rent.

On p. 500 of the third edition of Williams on Vendor and Purchaser is the following statement: "And it appears that in such case"—purchaser already in possession as vendor's tenant—"in the absence of stipulation to the contrary, the purchaser will be entitled to the rents and profits and liable to pay interest on the purchase money as from the date of the contract, notwithstanding that the contract be conditional on the vendor's showing a good title." One of the authorities cited in support is *Daniels* v. *Davison*, 1809, 16 Ves. 253. It would appear from a reference to this case that the real question in dispute and decided was, that the possession of a tenant is notice to a purchaser of the actual interest he may have. The incidental reference to the matter above referred to was in these words: "Where the original entry was as tenant, can the purchaser protect himself under an assurance from that person, who was once landlord, that the relation between them had not been changed? In equity at least this landlord could not have called for rent. The other might have refused it; and might have claimed under the agreement as determining the relation of landlord and tenant."

In Dart's Vendors and Purchasers and in Webster's Conditions of Sale the same statement is made, namely, that, if no time is fixed for completion, the purchaser should pay interest from the date of the contract if he is in possession. But it is not stated whether it is intended that the word "possession" shall include possession when the tenant is the purchaser, and there is no reference in the contract as to his taking possession.

It is respectfully submitted that the *dictum* in *Daniels* v. *Davison*, above referred to, requires further consideration before it can be accepted as a correct statement of law. One argument against it would be that to enable a contract of sale and purchase to have the effect of determinating the relation of landlord and tenant in equity, it must be an unconditional contract—a contract free from conditions. According to Williams' Vendor and Purchaser, 3rd ed., p. 480, in equity the land sold is certainly considered as belonging to the purchaser from the date of the contract; but only subject to the vendor's duty of showing a good title, to his lien for the price, and to his right to the rents and profits up to the proper time for completion. The analogy of a vendor and purchaser to a trustee and equitable owner is not absolute, and there are cases where it requires considerable straining to make it fit in at all.

Certainly at law the relation of landlord and tenant is not determined by a contract for sale, unless the purchaser happens to be merely a tenant at will of the vendor. See *Tarte* v. *Darby*, 1846, 15 M. & W. 601.

It is, therefore, submitted that a purchaser who happens to be the tenant of the vendor, not being entitled to possession under the terms of the contract, still remains a tenant, and should pay or account for his rent to the vendor, like any other tenant, up to the proper time of completion.

It is thought that, in the cases (*b*) and (*c*) mentioned above, the date from which a purchaser should be required to pay interest should be based on the principle that he is not entitled to receive or retain the rents until the proper time arrives for him to complete the purchase. The date would seem to be, where no date is fixed for completion, and no provision is made as to rents or interest, the date when the vendor has shown a good title and verified same; or, where a date has been fixed for completion, but no special arrangement made as to the receipt of the rent or the payment of interest, such fixed date. In other words, from the date of completion, either expressed or implied, under the contract.

If the above be the correct view, then, if the purchaser is in possession under the terms of the contract, he should pay interest from the date of the contract, or, if possession be taken after that date, from the date of the taking of possession. If he be let into possession by the vendor by special arrangement irrespective of the contract, such arrangement will have to be adhered to; but if there be no special arrangement made, then he will have to pay interest as from the date of his taking possession. The act of taking possession is, in the absence of agreement to the contrary, always taken to imply an agreement to pay interest: *Fludyer* v. *Cocker*, 1806, 12 Ves. 27.

The rule that the purchaser in possession under the contract or by arrangement shall pay interest on the unpaid part of the purchase money will be applied even in cases where the delay arises from the neglect of the vendor, and although the purchaser makes no actual profit out of the land (Fry on Specific Performance, 1921 ed., 658; *Ballard* v. *Shutt*, 1880, 15 Ch. D. 122), unless the purchaser appropriates the purchase money by payment to a bank or otherwise, and gives the vendor notice (*Kershaw* v. *Kershaw*, 1869, L.R. 9 Eq. 56).

(*To be continued.*)

The Trial of Mary Queen of Scots.

THE trial of Mary Queen of Scots is not only the most pathetic and romantic of all the State trials in English History; it is in some ways the most interesting to a lawyer. For there arose in its course an extraordinary number of important legal points taken by the Queen on her own behalf; for, in accordance with the barbarous procedure of the age, she was not permitted the advantage of being defended by counsel. Since the languages spoken fluently by Mary were French and Scots—the latter, in those days, was pronounced and spelled very different from its sister dialect, English—this denial of counsel was a grievous handicap to the prisoner; but nevertheless, she succeeded in defending herself with spirit and acumen. In particular, the legal points she raised were such that the legal advisers of Queen Elizabeth found it necessary, after condemnation and execution of the ex-Queen, to draw up two elaborate State Papers in reply to them. One was intended to quiet the legal conscience of Elizabeth herself; the other was transmitted to the Ministers of the King of Scotland. Mr. Steuart, among the other valuable documents printed in his edition of the trial,* has published both these papers, so that the lawyer is now, for the first time, in a position to appreciate the subtlety of the legal issues incident to the Tragedy of Fotheringay.

The facts which led up to the trial are ably narrated by Mr. Steuart in a lucid introductory chapter, but they are so well known that we need give only the briefest summary. Having abdicated in favour of her son, and been relegated a prisoner to Loch Leven Castle, Mary Queen of Scots escaped, and took arms to recover the throne she had resigned—no doubt, under duress. She was defeated and fled to England, throwing herself on the protection of her cousin, Queen Elizabeth. That able but ungenerous Sovereign received her, nominally, as a guest, but really as a prisoner, and "interned" her—to use a modern term of International law not then invented—in a series of State castles. Elizabeth's excuse was that Mary must not be allowed to disturb the peace of a neighbouring friendly power; this is much the same reason which induces neutrals, nowadays, to disarm and "intern" belligerents or rebels who cross into their territories. The real ground of Elizabeth's action, however, was undoubtedly fear that Mary, who was heiress to the throne of England, and a Catholic, might be hailed as leader by the oppressed Catholic party, whose numbers were certainly very considerable, and who were naturally ready to escape the persecution of their religion by the only means then feasible, an armed and successful rising. However that may be, Mary was detained in England for eighteen long years of wearisome captivity. She not unnaturally corresponded with prominent Catholics, who promised her release in the event of success; and she ceaselessly petitioned Elizabeth to set her free. But all in vain.

There occurred during these years a succession of obscure plots against the Queen of England. The last and most famous of these is the Babington conspiracy, which brought a chivalrous young Catholic, Francis Babington, to the block, and revealed a correspondence between Mary's secretary and the unfortunate conspirator. Mary denied the authenticity of the letters said to have been sent by her, although admittedly written by her secretary, and consistently assured the Queen that she had never sought the death or dethronement of Elizabeth, but merely her own release. But Protestant opinion in England rose to fever heat. The head of Mary was everywhere demanded, within Parliament and without its walls. A "Protestant Association" was formed to secure her prosecution and punishment. Parliament was induced to pass a special statute authorising her trial and punishment by a special Commission.

The Commission, consisting of lay and spiritual peers under the presidency of the Lord Chamberlain, was in due course appointed by Elizabeth under Letters Patent. It proceeded to Fotheringay Castle and insisted on commencing the trial, notwithstanding repeated protests of Mary that she was not an English subject but a foreign princess subject to no jurisdiction of any English court. In view of their statutory authority, of course, the Commissioners overruled, although they recorded, the plea barring their jurisdiction. Mary was convicted, and, after some pretended delay on the part of Elizabeth, who tried to evade responsibility by feigning a reluctance to issue the death-warrant she had taken good care to sign and place in the hands of her Secretary of State, she was executed by beheading at Fotheringay. Denied the consolation of ministration by a Roman priest and administration of the sacraments at his hand, Mary read from the Office-Book of the Church of Rome the Latin prayers for one *in articulo mortis*, kissed the crucifix, and laid her head on the block with the dignity of a queen and the fortitude of a martyr. The general opinion of impartial historians, then and since, has been that her treatment by Elizabeth was cruel, hypocritical, indefensible, and that the crimes of her youth were atoned for in large degree by the noble example of religious constancy given at her death.

Be this all as it may, there can be little doubt that the trial of Queen Mary is a blot upon the criminal jurisprudence of England. As a Sovereign Queen, she was not subject to the jurisdiction of Elizabeth. The case against her was proved *entirely* by the admissions of her secretary made under torture, and by extracts from copies of letters said to have been written by him at her dictation; the originals were never produced, although Mary denied the authenticity of the copies and demanded production of their originals. And even allowing, as seems very probable, that Mary did authorise the letters, they only implicate her in a plot to secure her own release and the freedom of her co-religionists; there is no passage in them which can fairly be imputed to show any privity on her part to designs either (1) to kill Elizabeth, or (2) to dethrone that Queen, or (3) to seize the throne of England herself. It is beside the mark, of course, to say that her trial was unfairly conducted; for in that age all trials of political prisoners for treason were conducted under a monstrously unfair procedure; the trial of Mary was not worse than that of other sufferers. But even when excuse is made for religious bigotry and racial animosity, it is difficult to believe that the judges, peers, and bishops who took part in the trial were sincerely convinced of Mary's guilt. They had to satisfy the Queen of England, a bigotedly Protestant House of Commons, and a fanatical people by finding a verdict of "guilty"—and they did so, probably without caring much whether it was true or false.

Interesting as are the minor issues of legality arising out of this trial to present-day lawyers, they did not interest Mary's own generation. But, curiously enough, almost every kind of public opinion seems to have been worried about the legality of trying a foreign sovereign under English law. Five replies to this plea were made by the astute pleaders employed by the Crown:—

(1) England was the feudal overlord of Scotland, and therefore a Scots Sovereign was an English subject.

[This reply was abandoned at the actual trial, because of the protests made by the public opinion of Scotland; it does not appear in the list of "reasons" sent to James.]

(2) Mary had ceased to be Scots Queen because she had voluntarily abdicated her throne in Loch Leven Castle.

[This reason Elizabeth objected to, on the ground that a Sovereign is not bound by an abdication made under duress, and therefore it also had to be abandoned by her legal advisers.]

(3) Mary was Heir to the English throne, and therefore as such subject to the laws of England *qua* heir although not *qua* foreign prince.]

[This was the reason ultimately relied on, and is specially interesting as an anticipation of the modern doctrine of "Double Nationality."]

(4) Mary had placed herself "under the protection of Elizabeth" and therefore had impliedly submitted to the jurisdiction of the English Crown.

[This was supported by a multitude of extracts from Roman Jurists and Christian Canonists. Precedents relating to Roman archbishops tried by mere bishops were quoted with facility, and are rather astonishing on the part of Protestant lawyers.

*Trial of Mary Queen of Scots. Edited by Francis A. Steuart, Advocate, Notable British Trials Series. William Hodge & Co., Limited. 10/6.

They appear in the Scots State Paper, but were not much relied on at the trial—probably because the Protestantism of the court did not feel easy about quoting or relying on such a class of precedents.]

(5) Mary by her treason to Elizabeth had impliedly waived or forfeited her right to immunity under International Law.

[Many Roman jurists and feudal precedents were quoted to support this doctrine; but it has the fatal weakness of begging the question, for it has no validity unless Mary's acts were capable of being treason, which was the point at issue.]

A large part of Mr. Steuart's book, in one way or another, is occupied by consideration of these points of law, and he has much that is interesting to say upon them. Indeed, it is their presence in so conspicuous a degree which makes the book a real addition to the literature of English Legal History. The reader who wishes to learn more about these matters must be referred to the sustaining provender prepared for him in Mr. Steuart's careful and valuable compilation of documents.

Reviews.

The English and Empire Digest.

THE ENGLISH & EMPIRE DIGEST, with Complete and Exhaustive Annotations. Being a Complete Digest of every English Case reported from Early Times to the Present Day, with additional Cases from the Courts of Scotland, Ireland, The Empire of India, and the Dominions beyond the Seas, and including Complete and Exhaustive Annotations giving all the subsequent cases in which Judicial Opinions have been given concerning the English Cases Digested. Vol. XII. Contract. Butterworth & Co.

The title Contract, to which this volume of the English and Empire Digest is exclusively devoted, has been contributed by Mr. Alan Leslie, assisted by Mr. C. A. Collingwood and Mr. Frank Gahan. We may assume, especially having regard to the subject, that Sir T. Willes Chitty, the Editor-in-Chief, has taken a special interest in it, and, indeed, the volume is likely to be one of the most interesting and useful n this exceptionally useful work. But for all who have been engaged on the volume, including the extensive clerical staff who have rendered its production possible, the labour must have been enormous; for the plan includes, not only the digesting in due classification and arrangement of the actual decisions, but also the annotations which show how the decision has been subsequently treated by the judges; in what cases it has been considered, approved, distinguished or explained, and so on; and whether it has been doubted, not followed or overruled. It is possible thus to trace the judicial history of any point which the practitioner has to consider, or the student to explore.

The success of such a work must consist largely in the scheme of arrangement on which it is built up. After Part I, which is a short collection of cases bearing on definition and classification, the remaining Parts deal successively with Parties to Contract; Formation of Contract; Statute of Frauds; Consideration; Void and Illegal Contracts; Performance and Excuses for Non-performance; Defences to Actions for Breach of Contract; Constructive Contracts; Personal Contracts; Ratification and Confirmation of Contracts; Assignment of Contracts; Interpretation of Contract; and Stamp Duties. These, each with its numerous sub-divisions, appear effectively to cover the whole subject. Thus Part VII, Performance and Excuses for Non-performance, includes as its fifth section, "Tender," which again is exhaustively considered under eight sub-sections; as its sixth section, "Rescission," which is considered under seven sub-sections; and as its ninth section, "Impossibility of Performance," with six sub-sections. And these sub-sections are followed out into numerous further divisions. A good example of this minuteness of classification will be found in the sub-section collecting the cases on the Requisites of Tender. The principle is that, to make a legal tender, there must either be an actual production and offer of money, or the production must be dispensed with by the express declaration or equivalent act of the creditor: *Thomas* v. *Evans*, 10 East, 101; and this principle is illustrated by a great number of cases in which on the particular facts there was a good tender, or the debtor, either by failing to produce the proper amount or by failing in a definite offer of it, lost the benefit of a tender. These latter must, however, be considered with reference to the greater readiness at the present day to disregard technicalities and look at the substance of the matter. Still, it is a safe rule, where tender by the debtor is necessary in order to discharge his liability, for him to have the proper amount actually ready to hand over, and to make an unconditional offer of it.

To turn to the other sections we have mentioned above—Rescission, and Impossibility of Performance—each bears abundant evidence of the active development of the law in recent times. Sub-section (3) of Rescission, under "Election to Treat Contract as at an end," shows the origin of the doctrine of Anticipatory Breach in *Hochster* v. *De La Tour*, 1853, 2 E. & B. 678, and the Annotations to this case give a long list of subsequent cases in which the doctrine has been applied, coming down to *Re Rubel Bronze & Metal Co. and Vos*, 1918, 1 K.B. 315. And there are the allied or explanatory cases of *Johnstone* v. *Milling*, 1880, 16 Q.B.D. 460, and *Mersey Steel & Iron Co.* v. *Naylor, Benzon and Co.*, 1884, 9 App. Cas. 434, each with its list of "annotations." Again, "Impossibility of Performance" traces through a large number of digested cases, each with its appendix of annotations, the doctrine of "frustration of the adventure," which assumed so much importance in litigation arising out of the war. Part XIV, "Stamp Duties," which concludes the title, consists only of references to other titles where the cases on the appropriate duties are given.

In addition to the contents outlined above, the work has continuous footnotes, digesting under each division the corresponding cases in parts of the Empire other than England. An Announcement issued by the Publishers with this volume explains the necessity for departing somewhat from the numerical succession of volumes. Volume 16, Contempt of Court, Courts, and Crown Practice, has been published, but vols. 9, 10, 14 and 15 have yet to come. Presumably one or both of vols. 9 and 10 will deal with "Companies," a very heavy title, and vols. 14 and 15 include "Courts-Martials" to "Crown Office."

CASES OF LAST SITTINGS.

Court of Appeal.

COMMISSIONERS OF INLAND REVENUE *v.* **ECCENTRIC CLUB LIMITED.** No. 1. 29th and 30th November; 3rd December.

REVENUE—CORPORATION PROFITS TAX—CLUB—BRITISH COMPANY—"CARRYING ON ANY TRADE OR BUSINESS OR ANY UNDERTAKING OF A SIMILAR CHARACTER"—SUPPLY OF PROVISIONS TO MEMBERS—FINANCE ACT, 1920, 10 & 11 Geo. 5, c. 18, ss. 52 (2), 53.

In 1912 a company was formed for the purpose of taking over and carrying on a members' social club, with a club-house and the usual amenities, including meals and refreshments. There was a surplus of income over expenditure, but no profits were made on the sale of refreshments. The members of the club and of the company were identical.

Held, that the club was not carrying on any trade or business or undertaking of a similar character, and therefore was not liable to corporation profits tax.

Decision of Rowlatt, J., 67 SOL. J. 681, *reversed*.

Appeal by the Eccentric Club, Limited, from a decision of Rowlatt, J., reported 67 SOL. J. 681, on an appeal by the Crown from a decision of the Special Commissioners. In 1912 the Eccentric Club, Limited, was incorporated to take over and continue the working of a London social club. It was a member's club and not a proprietary club. By the memorandum of association the income and property of the club was to be applied towards the promotion of the objects of the club, and no member of the club was to receive any dividend, bonus or other profit thereout. Every member of the club, when proposed, had to become a member of the company, and all the members of the company were members of the club. The company was limited by guarantee and had never been assessed for purposes of income tax. In 1920 there was a considerable surplus of income over expenditure, but the income was composed mainly of entrance fees and subscriptions, and there was a deficit on the purchase and sale of refreshments. By the Finance Act, 1920 (Part V, Corporation Profits Tax) it is provided: "s. 52 (2). The profits to which this part of the Act applies are, subject as hereinafter provided, the following, that is to say: (*a*) the profits of a British company carrying on any trade or business, or any undertaking of a similar character including the holding of investments . . . s. 53 (2) for the purpose of this part of the Act—(*b*) profits shall include in the case of mutual trading concerns the surplus arising from transactions with members. Rowlatt, J., held that the company was carrying on the business of a mutual trading concern, and the club appealed. The appeal was heard along with two other appeals arising under the same section, *Inland Revenue Commissioners* v. *Westleigh Estates Co., Ltd.*, and *Inland Revenue Commissioners* v. *South Behar Railway Company*, in which Rowlatt, J., had held that the companies were not carrying on any trade or business, and the Crown appealed. In each case the appeal was allowed, Sargant, L.J., however, dissenting in the *South Behar Case*.

POLLOCK, M.R., having examined the sub-section, said that "trade or business" were very wide words, and it was not easy to appreciate what undertaking there could be similar to a trade or business which was not embraced by those two words. The words of the section must be taken as they stood, and it was impossible to construe them by analogy from the Income Tax Acts or the Excess Profits Duty Act. They taxed the income of British companies carrying on a trade or business, and the question in each case was whether the company was carrying on a trade or business. Atkin, L.J., in *Inland Revenue Commissioners* v. *Korean Syndicate*, 1921, 3 K.B. 258, had held that the interpretation of the word "business" by Rowlatt, J., in *Inland Revenue Commissioners* v. *Marine Turbine Company*, 1920, 1 K.B. 193, if intended to be a precise definition, would be too narrow, but he made a reservation with which he (his lordship) agreed, viz., that it did not follow that if a company was doing nothing but receiving an income from its investments, it was not carrying on a business. Having dealt with the other two cases, he (his lordship) said that the case of the Eccentric Club Limited involved different considerations. The business of the company was to carry on the club, and any profits must be devoted to the advancement of the objects of the club. The club, it was contended, did not carry on any trade or business in any just appreciation of those terms. The company did not seek to gain, nor did its activities result in profit. His lordship then referred to *Last* v. *London Insurance Corporation*, 10 App. Cas. 438, and *New York Life Insurance Company* v. *Styles*, 14 App. Cas. 381. In the latter case persons were associated together for the purpose of mutual insurance, and the House of Lords, by a majority, held that the company was not carrying on any business having for its object the acquisition of gain. Applying the reasoning of the judgments in that case, and looking at the nature and substance of the transaction by which the members of the club were aggregated in the company, it seemed a far-fetched interpretation of the relevant section to hold that the association and activities of the members connoted the carrying on of business. In his lordship's judgment the company was the structure only, and it did not carry on any trade or business so as to impose a liability to corporation profits tax. The facts of the case were special and peculiar, and while as a general rule in cases of a company registered with the word "limited," there would be a strong presumption that it was intended to and did carry on a trade or business, yet in his (his lordship's) judgment the presumption could be rebutted and was so where as in the present case, the facts were such as to negative both the aim and the prospect of gain. The appeal would be allowed.

WARRINGTON, and SARGANT, L.JJ., delivered judgment to the same effect, the former observing that the company was a convenient instrument for enabling the members to conduct a social club, its transactions of sale and purchase being merely incidental to the attainment of the main object.—COUNSEL: *Sir T. Inskip*, K.C., Solicitor-General, and *R. P. Hills*; *Konstam*, K.C., *Bremner* and *R. Needham*. SOLICITORS: *J. D. Langton & Passmore*; *Solicitor of Inland Revenue.*

[Reported by H. LANGFORD LEWIS, Barrister-at-Law.]

RUSSELL and Others *v.* BEECHAM and Others. 26th October.

LANDLORD AND TENANT—LEASE—COVENANT BY LESSEE "NOT TO ASSIGN OR PART WITH HIS LEASE AND THE PREMISES . . . OR ANY PART THEREOF"—SUB-LEASE OF PART OF THE PREMISES—BREACH OF COVENANT—BREACH OF CONTRACT—NOTICE—CONVEYANCING ACT, 1881, 44 & 45 Vict., c. 41, s. 14.

A lease of certain premises, made in November, 1899, for thirty years, contained a covenant that "the lessee shall not . . . during the last ten years of the term . . . assign or part with his lease or the premises or any part thereof without the licence and consent" of the lessor. In 1921, the first defendant, who was the assignee of the lease, mortgaged his interest in the premises by sub-demise to the second defendant, retaining in himself a few days. The mortgage deed excluded the right of the first defendant to grant leases under the Conveyancing and Law of Property Act, 1881. In November, 1921, the first defendant, who was then in possession as tenant at will, agreed to sublet some rooms in the house to a tenant for three years giving the latter the option of continuing the tenancy so long as the landlord or his assignees should remain lessees of the premises. The plaintiffs alleged that this sub-letting of the rooms was a breach of the above covenant and claimed to recover possession and damages.

Held, by Bankes and Atkin, L.JJ., that, having regard to the decisions in Doe *v.* Hogg, 4 D. & Ry. 226, 1824, *and* Crusoe *v.* Bugby, 2 W. Bl. 776, 1700, *and the fact that the covenant was ambiguous in that it did not make it quite clear that the intention of the parties was that the mere parting with possession of the premises should work a forfeiture, the plaintiffs had failed to prove that the defendants had committed any breach of the covenant.*

Held, by Scrutton, L.J., that the action failed because the plaintiffs had not served on the defendants any notice of the alleged breach, as required by s. 14 *of the Conveyancing and Law of Property Act,* 1881.

Appeal from the decision of Bailhache, J. The plaintiffs had claimed possession of certain premises on the ground of alleged breach of covenant, the alleged breach being the sub-letting of rooms on the premises. The facts appear in the judgment.

BANKES, L.J.: The plaintiffs, the Bedford Estate, demised the premises for thirty years in November, 1899, and Sir Thomas Beecham, at all material times, was the assignee. In 1921 Sir Thomas Beecham mortgaged his interest in the premises by sub-demise, retaining in himself a few days, and therefore maintaining his position in law of assignee, but mortgaging the premises by sub-demise to a man named Matthews. The mortgage deed excluded the right of the mortgagor to grant leases in pursuance of the provisions of the Conveyancing and Law of Property Act, 1881. As a result of that, it seems to me that Sir Thomas Beecham's position after the date of the mortgage deed was that he was allowed to remain in possession of these premises as tenant at will. After the date of the mortgage, that is to say, on 23rd November, 1921, he entered into an agreement with a man named Grise under which he agreed to let, and Grise agreed to take, two principal rooms on the ground floor of this house and a third room in the rear, for a period of three years from 29th September, 1921, at a specified rent; the tenant was to have the option of continuing the tenancy for successive periods for three years so long as the landlord or his assignees should remain lessees of the premises. The action was brought in August, 1922, in the first instance, against Sir Thomas Beecham only, but by amendment against the mortgagee also; and the claim was for recovery of possession for breach of the covenants, the breach alleged being this agreement to let the premises to Grise for this period. It is said that this letting to Grise constituted a parting with possession of the premises, which in itself was a breach of covenant. Apart from authority, if the covenant which was said to have been broken contained these words I do not think anybody could contend for a moment that this letting by Beecham to Grise was not a parting with possession of the premises. But that is not the question we have to decide. The question we have to decide is whether, having regard to the peculiar terms of this covenant, what Beecham did in letting to Grise was a parting with the premises or part thereof. The matter came before Bailhache, J., and he decided it upon the ground, as I understand his judgment, that the agreement between Beecham and Grise might be treated as a void agreement, a scrap of paper, and therefore it did not affect the assignee's position or the mortgagee's position. I am not prepared to take that view of the legal position of these parties, and I do not desire to say anything more in reference to that point; because I do not think it necessary in order to decide this appeal. The two points that press me and have been urged are, first that on the true construction of the covenant there has been no breach of it, and secondly, that even assuming there was a breach, the plaintiffs were not entitled to maintain this action, on the ground that they had not served the notice required under the Conveyancing and Law of Property Act, 1881. The contention, as I understand it, is that under s. 14 of that Act a notice was necessary because this particular case did not fall within the exception of s. 14 (6) (i), which provides that the section does not extend "to a covenant or condition against the assigning, under-letting, parting with the possession, or disposing of the land leased"; and it is said that really what has occurred here, assuming that parting with the possession is a breach of the covenant, is not a parting with the possession of the premises, it is a parting with the possession of part of the premises, which refers to quite a separate covenant from the covenant not to part with possession, and that, as a result, a covenant not to part with possession of part of the premises not being specifically mentioned in the sub-section, a notice of the breach of covenant was required and the action cannot be maintained. Speaking for myself, if it were necessary to decide the case upon that point I should like to have further time to consider it, because I realize that the effect of accepting Mr. Jacobs' contention is very far-reaching, and I do not propose to offer any opinion on that particular point, but I am prepared to decide the case on the other point in reference to the construction of the covenant. It seems to me, on the authorities, that this special and peculiar form of words has received a particular construction, and, in my opinion, where a particular form of words has, for a long series of years, or a long number of years, been recognized by the authorities as having received a particular construction, the court should accept that construction, because it must realize that a number of transactions have been entered into and documents drawn in this form of words on the faith of the construction that the courts have placed upon the particular form of words. Nothing is easier, if a person desired to create a forfeiture in the event of a tenant parting with the possession, as opposed to

parting with his interest, to say so; but it is noticeable that in this particular covenant the word "possession" is not used. The words are: "The lessee shall not, nor will during the last ten years of the time hereby granted, assign or part with his lease or the premises hereby demised or any part thereof without the licence and consent of the" lessor. Now it is noticeable that the words "assign or part with" are used in reference to two subject-matters; one, the lease; the other, the premises hereby demised or any part thereof; and I think there is authority for saying that if the covenant had been "assign or part with this lease," although one would think that the conveyancer used "part with" as something different from "assign," yet I think the decisions go to this length, that, "assign or part with this lease" does not mean anything other than parting absolutely with it; and in substance there is no difference between "assign" or "part with the lease." The Lord Justice then dealt with *Doe* v. *Hogg*, 4 D. & Ry. 226: 1824, and *Crusoe* v. *Bugby*, Sir W. Bl. 776: 1770, and said that having regard to the construction placed on the covenants in those two cases, it seemed to him that the court had put on the expression "part with the premises" or "part with the indenture" a certain construction; and it excluded, on the reasoning adopted in *Doe* v. *Hogg*, *supra*, and *Crusoe* v. *Bugby*, *supra*, the mere change of occupancy which in *Crusoe* v. *Bugby*, *supra*, the court points out might have been easily provided for by the inclusion of words which, in the language of Bayley, J., admitted of no other meaning. Now I am confirmed in this being the view which this court ought to take by the fact that one knows from one's own knowledge that it is common form to insert in a covenant of this kind a provision that the tenant shall not part with possession. Those words being omitted from this clause, in view of the authority of these two cases, *Doe* v. *Hogg*, *supra*, and *Crusoe* v. *Bugby*, *supra*, I think that the view that this court ought to take of this covenant is in substance the view which was taken of the covenant in those two cases, and that we ought, in those circumstances, to say that the landlord not having made plain beyond question that the intention of the parties was that the mere parting with possession of the premises should work forfeiture, the tenant is entitled to succeed and that this action must fail with the usual consequences, and the appeal must be dismissed with costs.

SCRUTTON, L.J.: The covenant is one against assigning or parting with the leasehold premises hereby demised or any part thereof without the licence of the Duke, and no notice has been given under s. 14 of the Conveyancing and Law of Property Act, 1881. No notice has been given specifying the particular breach complained of and requiring the lessee to remedy the breach, if it be capable of remedy, and in any case requiring the lessee to make compensation in money, which is required by s. 14 of the Conveyancing and Law of Property Act, 1881, before rights of re-entry can be enforced. There is an exception to that provision in s. 14 (6) (i) of the Act: "This section does not extend to a covenant or condition against the assigning, under-letting, parting with the possession or disposing of the land leased . . ." Unless the covenant comes within these words notice is required. No notice was given in this case. A similar point came before Romer, J., in *Jackson* v. *Simons*, 67 SOL. J. 262; 1923, 1 Ch. 373, where the covenant was not to assign, or underlet, or part with the demised premises or any part thereof or part with or share the possession or occupation thereof; and it was alleged that the lessee had shared the possession with another person. No notice was given under s. 14 of the Act, and Romer, J., held that a covenant against sharing possession with another person was not a covenant coming within s. 14 (6) (i) against parting with the possession; that it was a different covenant not included in the exception, and that, therefore, the action failed owing to the omission to give the notice prescribed by s. 14 (1). In this covenant there is nothing about sharing possession, but there is a covenant against parting with the premises or any part thereof. Now, is a covenant against parting with possession of part of the premises covered by the words "part with the possession of the land leased"? I might be slow myself in coming to a conclusion on the point, but I find that Lord Eldon, whose doubts were always said to be more valuable than other men's certainties, in *Church* v. *Brown*, 15 Ves. 258, said that a covenant to part with the possession of the premises did not restrain a tenant from parting with part of the premises, that the two were different covenants, and when you were considering whether one or the other was a usual covenant you had to take into consideration that they were two different covenants. I myself am content to follow Lord Eldon and not to reserve the question whether Lord Eldon was right; and from that point of view this judgment is supportable because a notice was required unless this covenant came within s. 14 (6), and in my view Lord Eldon has decided that a covenant not to part with part of the premises is a different covenant from a covenant not to part with the premises. Therefore the notice prescribed by s. 14 of the Act of 1881 was required. That notice was not given, and consequently the action must fail. On the point on which my lord has decided I am going to give no decision.

ATKIN, L.J., concurred in dismissing the appeal on the ground stated by Bankes, L.J. His lordship preferred not to express any opinion on the point of want of notice under s. 14 of the Conveyancing and Law of Property Act, 1881, which was the ground on which Scrutton, L.J., decided the appeal.—COUNSEL: *Rayner Goddard*, K.C., and *F. J. Tucker*; *Sir H. Maddocks*, K.C., and *Jacobs*. SOLICITORS: *H. Dade & Co.*; *Taylor and Humbert*.

[Reported by T. W. MORGAN, Barrister-at-Law.]

High Court—Chancery Division.

WISE *v.* WHITBURN. Eve, J. 6th December.

VENDOR AND PURCHASER—LEASEHOLDS—SALE BY EXECUTORS—ASSENT TO SPECIFIC LEGACY—NOTICE OF ASSENT—BREACH OF COVENANT FOR TITLE—DAMAGES.

The defendants as executors, after paying the testator's debts, sold to the plaintiffs certain leaseholds which were specifically bequeathed by the will. The plaintiffs subsequently agreed to sell part of the premises to a third person who objected to the title on the ground that the executors having assented to the specific bequest had no power to sell. The plaintiffs now claimed damages against the defendants for breach of covenant for title.

Held, on the facts, that the executors had assented to the bequest, that the plaintiffs were not purchasers for value without notice, and therefore they were entitled to damages.

In April, 1922, the defendants, as executors, offered for sale by auction certain leasehold premises for the residue of a term of eighty years from 24th June, 1868, at a ground rent of £165, and under the conditions of sale the vendors were stated to be selling as executors with an implied statutory covenant that they had not encumbered, and the concurrence of persons beneficially interested was not to be required. There was no sale at the auction, but on 30th November, 1922, the property was sold privately to the plaintiffs for £600 by reference to the conditions and particulars. The abstract of title was to commence with the lease under which the property was held, and from the will it appeared that the testator bequeathed the premises in question to his executors and trustees in trust to permit his wife to occupy the same during her life and after her death to hold the premises upon the same trusts for the benefit of the testator's son, who was also one of the executors, and his children or issue, as were therein declared respecting his share in the testator's residuary estate. The testator died in 1911, and the executors permitted his widow to continue to reside in the house for ten years until her death. No consent to this specific legacy was given by the executors, and the testator's debts had long since been paid. The purchase by the plaintiffs was completed on 19th December, 1922, by an assignment of the unexpired term of the lease. In February, 1923, the plaintiffs agreed to grant an underlease of part of the property to a third person, who took the objection that the executors, having assented to the specific bequest, had no power to sell to the plaintiffs. The plaintiffs now claimed damages for breach of the covenant for title by the defendants. The defences to the action were, (1) that there had been no assent by the executors in fact to the bequest, but if there were such assent, (2) the legal title was in the vendors as trustees, and the plaintiffs as purchasers from them had no notice of the assent, and were in the position of purchasers for value without notice, and (3) that there was an implied power of sale under the power in the will to vary investments.

EVE, J., on the first point, held that on the facts the conclusion was irresistible, that the executors had assented to the specific legacy very soon after the death of the testator, and that the assent extended to the interest of the tenant for life in remainder. The legal effect of the assent was that the executors had lost their vested right of property as executors and had become trustees, as stated by Lord Haldane in *Attenborough* v. *Solomon*, 1913, A.C. 76, 85. The second point presented some difficulty. It was argued that, assuming there was such assent, the purchasers from the executors had got the legal estate, that they had no sufficient notice of the assent and were in the position of purchasers who had a legal title without notice of any equity affecting their right to rely on the legal title. It was said that nothing but actual knowledge of the assent was sufficient, and reliance was placed on the words of Warrington, L.J., in *Re Kemnal and Still's Contract*, 1923, 1 Ch. 293, where he stated that in the realisation of an estate by executors for the purpose of paying debts, etc., it was well settled that no purchaser was liable to have his title called in question unless he had actual notice of the impropriety of the transaction. The question was raised here whether there was not in fact actual notice, and he came to the conclusion that the purchasers did in fact have actual notice of the impropriety, and were, therefore, not purchasers for value without notice. On the third point, he rejected the

argument that an implied power of sale ought to be read into the trusts as being too far fetched. The result was that the defence failed, and the plaintiffs were entitled to an enquiry as to damages by reason of the breach of covenant for title, and the defendants must pay the costs of the proceedings.—COUNSEL: *Gover*, K.C., and *J. G. Wood*; *Roope Reeve*, K.C., and *Bryan Farrer*. SOLICITORS: *Faithfull, Owen, Blair & Wright*; *Bischoff, Coxe, Bischoff & Thompson*.

[Reported by S. E. WILLIAMS, Barrister-at-Law.]

ELLIS AND CO.'S TRUSTEE *v.* JOHNSON.

P. O. Lawrence, J. 15th, 16th November; 5th December.

BANKRUPTCY—MEASURE OF DAMAGES FOR WRONGFUL SALE OF SHARES PLEDGED—BANKRUPTCY ACT, 1914, 4 & 5 Geo. 5, c. 59, s. 31.

Messrs. Ellis & Co. (bankrupts) had wrongfully sold shares deposited with them by the defendant as security for a running speculative account on the Stock Exchange which the defendant had with Messrs. Ellis and Co., and which shares, by agreement, were to be returned when the account was finally closed.

Held, that an account must be taken of what was due from the defendant to the estate of the bankrupts in respect of the sale and purchase of shares on his account, and an enquiry must be directed as to the value of the shares wrongfully sold at the date of the signing of the certificate, and such value must be set off against the balance certified to be due from the defendant.

In re Daintrey, 1900, 1 Q.B. 546, *applied*.

This was an action brought by the trustee in bankruptcy of Ellis and Co. to recover from the defendant a sum of £429 17s. 7d. as the balance alleged to be due on a final account. The facts were as follows: The bankrupts were stockbrokers, and the defendant had opened a speculative account with them many years ago, and this account was still current at the date of the bankruptcy. The defendant had, as security for any debit balance from time to time owing, deposited with the bankrupts the indicia of title to various investments which included shares in two rubber companies. The value of those shares was about two-fifths of the total value of the investments pledged. It was a part of the arrangement that the bankrupts were to render an account every month carrying forward the balance to the next account, with interest, and when the account was closed a final account was to be rendered, whereupon the defendant was to pay the balance due and the bankrupts were to return to the defendant the pledged investments. In March and November of 1921 the bankrupts sold the rubber shares without the knowledge or authority of the defendant. A receiving order was made against the bankrupts in February, 1922, and on the same day they were adjudicated bankrupt, the effect of which was to close the defendant's account. On the evidence the court found that the earliest date on which the defendant received notice of the sale of the rubber shares was 22nd August, 1922. The trustee rendered the defendant a final account in February, 1923, giving credit for the proceeds of sale of the rubber shares as on the date on which, and at the prices at which, these shares were sold. The market price of the shares had in fact risen since the sale. For the trustee it was contended that he was entitled to have an account taken on the footing of the defendant being given credit for the value of the shares, either at the date of the receiving order, or, alternatively, at the date when the shares were sold, or when the defendant first had notice of the sale, and might recover the balance on such account, and was not bound to restore the shares. For the defendant it was contended that he was entitled to have the shares restored to him, and was not liable to be sued by the plaintiff for a balance, or, alternatively, that under s. 31 of the Bankruptcy Act, 1914, the defendant was entitled to set-off against the balance the value of the shares at the mean price on the day when they ought to have been returned to him, as damages for breach of the agreement to return them to him.

P. O. LAWRENCE, J., in the course of a considered judgment, said: The principle that a mortgagee may not sue the mortgagor for the mortgage debt if he has wrongfully parted with the mortgaged property is founded on the right of the mortgagor to have the mortgaged property restored to him on payment by him of the money due on the mortgage: see *Walker* v. *Jones*, 1865, L.R. 1 P.C. 50, 61-62. That principle does not depend upon the nature of the property mortgaged, but upon the relation of mortgagor and mortgagee, and therefore applies to a mortgage of investments. The principle, however, is not inflexible, and in the special circumstances where the shares sold bear a comparatively small proportion to the whole of the investments pledged and are of a marketable quality, and the plaintiff is suing in the character of trustee and has himself been no party to the wrongful sale, the principle requires to be modified to the extent of imposing a set-off of the price of the shares, as on the day on which they ought to be restored to the defendant, against the ultimate balance found due from him. It is not disputed that the proper date for fixing the damages is the date of the breach, but I think the breach is not the sale of shares, but the failure according to the terms of the contract to return the shares when a proper final account has been stated and the defendant has paid the balance found due. The defendant has refused to treat the contract as rescinded owing to the anticipatory breach of it by the wrongful sale of the shares, although he was entitled so to treat it, and has held the plaintiff to his obligations under the contract to return the shares when the time fixed for performance arrived: see *Michael* v. *Hart & Co.*, 1902, 1 K.B. 482. Damages will be measured by the price of the shares when they ought to be returned, that is, when the balance due on the shares is certified and becomes payable. Even if the defendant had elected to treat the coutract as rescinded and were claiming to set off damages for the anticipatory breach, the damages would still be assessable by reference to the date when the contract would have to be performed: see *Frost v. Knight*, 1872, L.R. 7 Ex. 111. It is true the date of the receiving order is the proper date for ascertaining provable debts, and a contingent claim for unliquidated damages is a provable debt; but unless the contingency has already happened, the amount of the damages is not fixed on the basis of the contingency having happened on that date. If the contingency happened after the proof was lodged and the damages had been estimated below the true value, the creditor may amend his proof at any time during the continuance of the bankruptcy, but so as not to disturb prior dividends. The defendant is entitled under s. 31 of the Act of 1914 to set off his claim against the claim of the trustee, notwithstanding such claim is made in an action and not by way of proof in the bankruptcy: see *In re Daintrey*, 1900, 1 Q.B. 546. An account will be taken of what is due from the defendant to the estate of the bankrupt in respect of the sale and purchase of shares on his account, and there will be an inquiry as to the value of the rubber shares at the date of the signing of the certificate by reference to the mean prices ruling on the day before the signing of the certificate, and the value of the shares when ascertained will be set off against the balance certified to be due from the defendant.—COUNSEL: *Owen Thompson*, K.C., and *Hansell*; *Jenkins*, K.C., and *Charles B. Marriott*. SOLICITORS: *Piesse and Sons*; *Vandercom, Stanton & Co.*

[Reported by L. M. MAY, Barrister-at-Law.]

High Court—King's Bench Division.

COMMISSIONERS OF CUSTOMS AND EXCISE *v.* GRIFFITHS.

Div. Court. 26th and 29th October; 19th November.

LICENSING — GENERAL STORE — INTERNAL COMMUNICATION RESTAURANT—"ON" AND "OFF" LICENCE—MONOPOLY VALUE—POWERS OF LICENSING JUSTICES—LICENSING (CONSOLIDATION) ACT, 1910, 10 Edw. 7 & 1 Geo. 5, c. 24, s. 70—FINANCE ACT, 1911, 1 & 2 Geo. 5, c. 48, s. 4.

A justices' licence was granted to a company which carried on the business of a general store in a large building, having internal communication between the various departments. The licence in question was granted in respect of a restaurant in the building for the sale of liquor on and off the premises, and was confined to that restaurant, and the justices fixed the monopoly value at £500 on the assumption that the licence covered the restaurant only.

Held, that s. 70 of the Licensing (Consolidation) Act, 1910, did not preclude the justices from granting the licence in respect of the company's restaurant.

Held, also, that the object of s. 4 of the Finance Act, 1911, was confined to excise, and that the powers of justices in respect of the granting of licences were therefore not restricted by that section.

Case stated by the confirming authority of London. The respondent was the secretary of the general stores known as Harrods Limited, whose premises in Brompton Road comprised a large block of buildings, access to and from any part of which could be obtained without the necessity of going into any public street. On the fourth floor there was a restaurant, access to which could only be obtained by lifts or staircases. On the ground floor there was a wine and spirit department in respect of which an off-licence had been granted, and there was a large cellar in the basement in connection with this department. In 1922 a wine on-licence was granted in respect of the restaurant, and early in 1923 the respondent gave notice of his intention to apply for the grant of a justices' licence authorizing him to sell in the restaurant any intoxicating liquor which might be sold under a publican's licence for consumption either on or off the premises. On 27th February, 1923, the licensing justices granted to the respondent a new licence, subject to the payment of £500 as monopoly value. This monopoly value was fixed on the assumption that the licence covered the restaurant only, and did not include any sum in respect of the sale by retail of intoxicating liquor for consumption off the premises. At the

meeting of the confirming authority it was objected on behalf of the Commissioners that it was not lawful for the licensing justices to grant such a licence covering the restaurant only, but that if such a licence were granted, the whole of the premises should be included and the monopoly value be increased accordingly. The confirming authority, however, confirmed the new licence, but stated this case for the decision of the court as to whether the licence could legally be granted in the form in which it had been granted by the licensing justices. By s. 70 of the Licensing (Consolidation) Act, 1910, it is provided: "(1) A person shall not make or use or allow to be made or used any internal communication between any licensed premises and any premises, not being licensed premises, which are used for public entertainment or resort, or as a refreshment house. (2) If any person acts in contravention of this section, he shall be liable to a fine not exceeding ten pounds for every day during which the communication remains open, and in addition shall, if he is the holder of a justices' licence, forfeit that licence." By s. 4 of the Finance Act, 1911, it is provided: "The following definition shall be substituted, as from the first day of April, nineteen hundred and eleven, for the definition of premises contained in section fifty-two of the Finance (1909-10) Act, 1910: The expression 'premises' in relation to the annual value of licensed premises includes any offices, courts, yards, and gardens which are occupied together with and are within the curtilage, or in the immediate vicinity, of the house or place where the liquor is sold, except any such offices, courts, yards, or gardens as are proved to the satisfaction of the commissioners to be used either altogether, or with occasional exceptions only, for any trade or business which is entirely distinct from the trade or business carried on in the house or place by the licence-holder as such, and also includes any building or place which, though not within the curtilage, or in the immediate vicinity, of the house or place where the liquor is sold, is used by the licence-holder for receiving or storing liquor, or which, in the opinion of the commissioners is used by him, otherwise than occasionally, for any purpose in connection with the sale of liquor."

The court (Lord HEWART, C.J., SANKEY and SALTER, JJ.), in a considered judgment, held that the justices were not prohibited by s. 70 from granting a licence prescribed by metes and bounds to a place like the restaurant in question; that s. 4 of the Act of 1911 was directed towards excise and did not limit the rights of justices with regard to the granting of a licence; that the decision of the justices as to the monopoly value was correct; and that the appeal must be dismissed.—COUNSEL: *Sir Douglas Hogg* (A.-G.) and *W. Bowstead; Sir H. Curtis Bennett*, K.C., and *St. John Hutchinson*. SOLICITORS: *Solicitor for Customs and Excise; Martineau & Reid*.

[Reported by J. L. DENISON, Barrister-at-Law.]

Cases in Brief.

(*Continued from p. 278.*)

Rent Restriction.

[Under this head we propose to summarize the chief decisions on the Increase of Rent &c. Restrictions Acts, which are still of practical importance.

RESTRICTIONS ON THE INCREASE OF RENTALS:—There are three cases still in force under the earlier Acts, relating to the meaning of the all-important words "increase of rent," which are still leading decisions under the new Act of 1923. The general principle of all the statutes, of course, is that in the case of protected dwelling-houses landlords are not permitted to recover from the tenant an "increased rent" which exceeds the standard rent—except in so far, both as regards notice and amount and repairs, as the statute expressly permits. *Primâ facie*, it may seem easy to say whether or not rent has been "increased"; but there are snags awaiting the practitioner here as elsewhere in the navigation of these tortuous statutes. For the actual increase in *quantum* may have been contracted for in the original tenancy, or at a date *prior* to the coming into force of the statutory restriction. Such increases, although arising out of the original pre-statutory tenancy, nevertheless have been held to violate the provision in s. 1 of the Act of 1920, which forbids increases "*notwithstanding any agreement to the contrary.*" An agreement to the contrary, it appears from the cases we are about to quote, includes provision for an increased rental contained in a tenancy agreement made before the material date when the standard rent is calculable.

In a tenancy agreement dated 12th March, 1920, premises were let from 25th March, 1920, at an annual rent of £230, payable quarterly on the usual quarter days. The standard rent was £60 per annum, and the premises came within the Act of 1920 for the first time as from the 25th March, 1920. So there had been an increase of rent *since* 25th March, 1920—and therefore one forbidden by the statute—if the agreed rental accrued *since* that crucial date, but no increase if it accrued *before* 25th March, 1920. Note closely the position. Tenancy commences 25th March, 1920; rent first becomes due 25th June, 1920; agreement is made on 12th March, 1920. Two of those dates cannot be said to have occurred *since* 25th March; the third has so occurred. Which is material? It was held by Mr. Justice Acton that the rent actually accrues from *die in diem* commencing one day after the commencement of the tenancy, *i.e.*, on the 26th March. Therefore the increase was *since* the 25th March and forbidden under the Act: *Raikes* v. *Ogle and Another*, 1921, 1 K.B. 576.

In another case a still further extension of this principle of interpretation was made by the courts. Here an agreement made, before the crucial date, for a tenancy commencing before it provided for an increase of rental immediately after the statute came into operation. The increase, although exceeding the "standard rent," was within the limits permitted by the Act itself. Nevertheless it was held irrecoverable by the landlord. For the statutory permitted increases are subject to conditions precedent as to a common law right to possession by the landlord coupled with a notice of increase to the tenant. In the absence of these conditions precedent, no permitted increase is possible. Hence such an increase falls between two stools: (1) It is an "increase" as defined by s. 1 of the Act of 1920 and therefore irrecoverable unless permitted by the statute, and (2) although within the statutory limits, it does not satisfy the statutory conditions: *Michael* v. *Phillips*, 1923, 67 SOL. J. 385; 92 L.J. K.B. 356; 21 L.G.R. 207.

A much more complicated set of facts occurs in the last of our three cases. Here a house had been let for three years at a rent of £50 per annum so long ago as March, 1912. It was within the Metropolitan Police District area and therefore came within the Act of 1919, s. 4 of which extended the protected rental within that area from £35 to £70. Now the history of this house within the war period was as follows: In March, 1915, the three years' term came to an end, but the tenant, although not protected by any Act then in force, remained in possession with the landlord's assent. In October, 1918—still before the house became a "protected" dwelling—the parties agreed that the tenant should continue to hold the house at a rent of £50 a year until 25th March, 1919, and thereafter for one year to 25th March, 1920, at an increased rent of £65. On 25th March, 1919, after the making of this agreement, the new statute of 1919 attached its privileged protection to such premises, and the question therefore arose whether or not a rent—provided for in 1918, *before* the enactment of the new Act—but taking effect on 25th March, 1919, the very day when the new statute operated for the first time, was valid or invalid. Here the Court of Appeal by a majority (Bankes and Scrutton, L.JJ, whereas Warrington, L.J., dissented), held that the increase of rental took place as from the first quarter day on which it was payable, namely 24th June, 1919. Since that date is after 25th March, 1919, the rent had been increased since that date [or since 25th December, 1918, the date from which under later legislation the increase is forbidden], and therefore was irrecoverable: *Goldsmith* v. *Orr*, 1920, 64 SOL. J. 615; 36 T.L.R. 731.

INCREASED BENEFIT NOT AN INCREASED RENT:—In one case which stands quite by itself a somewhat different point arose. Section 12 (1) (*b*) of the Corn Production Act, 1917, which is no longer in force, allowed an employer to treat as part of the minimum wage he must pay an agricultural labourer certain "benefits" or "advantages" granted to the labourer which have an ascertainable pecuniary value. One of these is the occupation of a cottage at a nominal rental. Such a nominal rental is the standard rent for the purposes of the Rent Restriction Acts, although the employer can treat as a "benefit," and deduct from wages, the difference between such standard rent and the commercial value of the premises. He cannot increase the rent as such, but he is not therefore debarred from making a deduction from wages. The case is still important as distinguishing between "increased benefit" and "increased rent": *Baker* v. *Wood*, 54 SOL. J. 256.

PROGRESSIVE RENTALS:—Where a dwelling-house was let on 3rd August, 1914, its "standard rent" is normally the rent at which it was then let; but if it was not let at that date the standard rent is either the last previous rental or the first subsequent rental according as the house was first let before or after the Act: Increase of Rent Act, 1920, s. 12 (1) (*a*). But a statutory modification is provided by this same sub-section in the case of a dwelling-house let at a *progressive* rental payable under a tenancy agreement made before any of the statutes applied to such house. In that case the standard rent is the *maximum* rent payable at any period under such agreement. This at once raises the question, what is a progressive rental? It has been decided in two reported cases that such a rental means one where a progression throughout the tenancy is provided for; it does not include an agreement for a definite increase of rent for one special period of twelve months only: *Goldsmith* v. *Orr*, *supra*; *Pond* v. *Barber*, Estates Gazette, 9th June, 1923.

STATUTORY ALTERNATIVE OF RATEABLE VALUE:—One of the most unfortunate provisions of the Acts is that which provides an alternative, as between standard rental and rateable value, in ascertaining the statutory rental. Probably this was intended by the draftsman of the Act of 1915 only to give a means of fixing "statutory rental" where the landlord was himself in occupation or let at a non-commercial rent. Unfortunately the alternative is not confined to such cases. And, as if to make confusion worse confounded, a radical change in deciding between these alternatives was effected by the Act of 1919. The Act of 1915 provided that a house was protected if *either* standard rent *or* rateable value did not exceed the statutory limits. But the Act of 1919, as regards the new class of houses which it brought within the statutory protection, required *both* standard rent *and* rateable value to be within the named limits. The Act of 1920, however, reverted to the earlier plan, and applied to all houses within the Act the test that *either* standard rent *or* rateable value does not exceed £105, £90, or £78, according to locality. This test has been preserved by the Act of 1923, so that certain of the earlier decisions on this point are still applicable and others are not applicable. In order to decide whether any reported case on the point is still in force, it is necessary to observe the value of the premises to which it applies *plus* the date of the Act under which the cases arises: *Westminster and General Properties and Investment Company* v. *Simmons*, 35 T.L.R. 669.

In another case a brewery company, on 3rd August, 1914, were lessees of a public-house at a rent of £130. The lease contained *no* tied covenant, but the lessees had sub-let it to a publican on the usual tied covenants at a rental of £24. In August, 1916, the brewery company's lease expired; and the owners of the house came into possession of their reversion. The sub-lessee remained on as tenant at a rent subsequently fixed as £30. In 1920 the owner gave the tenant (1) the statutory notice to quit, coupled with (2) a notice to increase rent to £130. The tenant held over and refused to pay more than £30 a year. Here, for some curious reason, the rateable value of the premises had been fixed at £24 16s. The question arose whether the premises were within the Act. Apart from the vexed question whether the standard rent was £24 or £30, or £130, the court held that, in any event, the rateable value being only £24 16s., the house clearly came within the limits of the Act of 1915, so that no increase of rent beyond the permitted increases of 40 per cent. was available to the landlord: *Glossop* v. *Ashley*, 1922, 1 K.B. 1.

It is provided by s. 12 (1) (*a*) of the Act of 1920 that, where the rent was less than the rateable value at the crucial date of calculating standard rent, the larger amount, namely, the rateable value, is to be deemed the standard rent. This may seem an unlikely contingency, since rateable value is usually ascertained by deducting the cost of repairs from the actual rental, for rateable value is the value of the premises to a hypothetical tenant doing his own repairs. A leading case, however, illustrates the operation of this selection between alternatives. A tied beer-house was let for twenty-one years from 25th March, 1909, at a rent of £40 per annum. The house being tied, obviously the rental is not an indication of real value, and here the rateable value was £48, *i.e.*, it exceeded the rent. This latter figure was held to be the standard rent: *Poplar Assessment Committee* v. *Roberts*, 1922, A.C. 93.

INCLUSIVE RENTALS:—A manifest difficulty of interpretation arises under the Acts where houses are let, as flats nearly always are, at inclusive rentals, which include (1) rates, or (2) fixtures. An opposite rule would appear to apply in these cases. Where the nominal rental includes rates paid by the landlord, the standard rent is *primâ facie* that set out in the lease. But where the tenant agrees to pay an additional sum for the use of fixtures, that sum is *not* part of the standard rent: *Westminster and General Properties, etc.*, v. *Simmons*, 35 T.L.R. 669; *Isaacs* v. *Tittlebaum*, 64 SOL. J. 223; *Ellen* v. *Goldstein*, 88 L.J. Ch. 586; *Lawrie* v. *Woods*, 1920, 2 Ir. R. 106.,

RENTALS OF ALTERED PREMISES:—Where a house has been substantially altered since the date at which the statute originally attached to it, and has been re-let as premises within the statute after the alterations, it must be treated as a new house let for the first time at the latter date, at which its standard rent must be ascertained: *Sinclair* v. *Powell*, 1922, 1 K.B. 393.

INCREASED RENT AFTER LOWERED RENTAL:—An interesting point, which is still undecided, but as regards which *dicta* of three learned judges are available, is whether, after a house has been temporarily let at a lower rental than the statutory standard rent, the landlord, on coming into possession or acquiring a right to possession, can re-let at the standard rent without giving the statutory notices; but the presumption is that he can do so: *Glossop* v. *Ashley*, *supra*.

(*Concluded.*)

New Orders, &c.

Board of Trade.

CLAIMS FOR COMPENSATION.

UNDER PARAGRAPH (*e*) OF ARTICLE 297 OF THE TREATY OF VERSAILLES.

The Controller of the Clearing Office (Enemy Debts) announces that a third dividend of 2s. 6d. in the £ will be paid upon all Awards of the Mixed Arbitral Tribunal for compensation under the above Article. Awards of £50 and under, which have not been already paid, will be paid in full. Claimants who did not participate in the two previous dividends and whose awards exceed £50 will receive that amount on account and be entitled to the two previous dividends, each of 2s. 6d. in the £ in addition to the third dividend now declared, making in all 7s. 6d. in the £ on the balance of their awards.

Payable Orders will be issued by the Clearing Office on the 31st January, 1924, to all claimants who have obtained awards up to that date. The dividends upon subsequent awards will be paid on the fortnightly pay day next after the date of such awards.

Societies.

The Law Society.

A Special General Meeting of the Members of the Society will be held in the Hall of the Society, on Friday, the 25th January, at 2 o'clock.

Mr. James Dodd (London) will ask:—

"What progress has been made towards the establishment "at the Law Courts of a Central County Court where actions "can be tried by agreement between the parties."

Mr. James Dodd (London) will move:—

"That it is to the public interest that Solicitors should have "audience in all Courts co-equal with barristers and that the "Council be directed to take such steps as may be necessary "in order to secure this reform."

Mr. Edward A. Bell (London) will move:—

"That this Meeting observes with satisfaction, the concerted "and unanimous recommendation by the Council, of the "legislative proposals enabling Solicitors to render Gross Sum "Charges, in lieu of Itemized Bills of Cost."

Mr. Edward A. Bell (London) will ask:—

"Whether the Council's arrangements for the entertainment "of The American Bar Association during its visit to this "Country will include a Reception, to which ladies accompany-"ing the Association will be invited?"

Law Society's Hall,
Chancery Lane, London, W.C.2.
16th January.

E. R. COOK,
SECRETARY.

Gray's Inn.

The members of the Historical Association visited Gray's Inn on the 3rd inst., and were, says *The Times*, given an address on the place of the Inn in history by Sir D. Plunket Barton, K.C., late Judge of the High Court of Justice, Ireland, and Treasurer and Resident Bencher of Gray's Inn, 1922.

The meeting was held in the Hall of the Inn, which, as Sir D. Plunket Barton recalled, is so ancient that it was called the "Old Hall" in the reign of King Edward VI. It is substantially in the same state to-day as it was in the days of Elizabeth. Among its most notable features is the beautiful collection of armorial designs which are emblazoned on its windows. Copies of many of them made by Sir William Dugdale so long ago as

1660 are still extant. Sir D. Plunket Barton mentioned that to preserve them from harm from air raids during the war, the windows were taken out and buried in a place of safety.

Gray's Inn's golden age, said Sir D. Plunket Barton, was the reign of Elizabeth. Before she came to the Throne two members of the Inn, Nicolas Bacon and William Cecil, afterwards Lord Burleigh, had gained promotion in the law, and were intimate friends and close allies. They had favoured the idea of applying some of the confiscated revenues of the Monasteries to the establishment of a university in London that would be a training place for statesmen. The plan fell through, but they carried it out on a smaller scale in their Inn. They became respectively Lord Keeper and Secretary of State to the young Queen, whom they served and guided much as Lord Melbourne guided Queen Victoria in the early years of her reign. Perhaps no single British Minister ever made so much history in his time as Burleigh did.

Besides Nicolas Bacon and Burleigh, the Inn comprised among its members Sir Henry Sidney, thrice Lord Deputy of Ireland, Sir Francis Walsingham, the head of the Queen's foreign secret service, and Charles Howard Earl of Nottingham, who held the chief command and led the mid-channel squadron against the Spanish Armada. To Gray's Inn Burleigh introduced his two sons, Thomas and Robert, founders of the noble houses of Exeter and Salisbury, his sons-in-law, Lord Wentworth and Edward De Vere, Earl of Oxford; while Nicolas Bacon brought his five sons, all of whom had distinguished careers before them, and one, the youngest of the family, was destined to be the most famous man of his time. Around this family circle Burleigh grouped within the walls of Gray's Inn the most brilliant young men of that day, every one of whom played some part small or great in that age of adventures which so often ended in tragedies. Two of them lost their lives by being involved in the cause of Mary Queen of Scots—Thomas Howard, fourth Duke of Norfolk, and Henry Percy, eighth Earl of Northumberland.

More fortunate was the lot of Sir Philip Sidney, who came to the Inn with a double tie, for he was the son of Sir Henry Sidney and the son-in-law of Sir Francis Walsingham. After him came Henry Wriothesley, third Earl of Southampton, Roger Manners, Earl of Rutland, and William Herbert, Earl of Pembroke. These names brought the Inn into touch with Shakespeare, who borrowed hints from Sidney's *Arcadia*, and is believed to have taken Southampton, Rutland, and Pembroke as the models whom he reproduced under the names of Bassanio, Gratiano, Romeo, Benedict, Florizel, and Valentine. It was to Southampton that Shakespeare dedicated *Venus and Adonis* and *Lucrece*; and it was to Pembroke that his fellow-players, after his death, dedicated the First Folio.

Shakespeare knew Gray's Inn, for he alludes to it directly in the play of *King Henry IV*, where Justice Shallow is made to boast that in his student days he had a victorious pugilistic encounter behind the walls of Gray's Inn. The *Comedy of Errors* was acted in 1594 in Gray's Inn Hall, which is one of the very few remaining buildings in which a play of Shakespeare's was acted in his lifetime.

Mr. G. P. Gooch, president of the Historical Association, conveyed the thanks of the members to Sir D. Plunket Barton for his interesting lecture.

Gray's Inn Moot Society.

A Moot will be held in Gray's Inn Hall, on Monday, the 21st inst, at 8.30 p.m., before The Right Hon. Lord Justice Bankes.

Three motor vehicles are proceeding along the North Road in the direction of London. The first vehicle A is proceeding slowly on the near side close to the hedge, vehicle B is overtaking A and vehicle C is overtaking B. Just as the three vehicles are getting almost alongside each other the driver of vehicle A, without any warning, negligently comes out to his off side to avoid an obstruction in front of him. The driver of vehicle B (who is not keeping a good look-out) in a sudden endeavour to avoid vehicle A negligently runs into and damages vehicle C. The repair of vehicle C costs £200.

The owner of vehicle C sues the owner of vehicle A for £200 damages and recovers judgment. The owner of vehicle A is without means and no portion of the damages can be recovered. On ascertaining this the owner of vehicle C sues the owner of vehicle B for the same £200 damages. The owner of vehicle B admits negligence; but pleads that the tort of which the owner of vehicle C complains was a joint tort, and that, judgment having been obtained against one of the two joint tortfeasors, the owner of vehicle C is not entitled to proceed against the other.

Judgment is given for the plaintiff for £200.

The defendant appeals.

All members of the four Inns of Court are invited to attend. Two "Counsel" will be heard for each of the parties. The procedure will be in accordance with the practice of the Court of Appeal.

Fire Inquiries.

THE REPORT OF THE ROYAL COMMISSION.

(*Continued from p.* 262.)

Under Fire Enquiries the Report of the Commission says:—"References have been made to the practice in the City of London, where many such inquiries have been held by the present coroner, Dr. Waldo, who gave the Commission much useful information as to the history of the subject and his own experience and methods, and by his two immediate predecessors in office. It certainly seems somewhat anomalous that Dr. Waldo should be empowered at his discretion to investigate any fire occurring in the City, but should have no similar power in Southwark, where he holds the same office." (Dr. Waldo has for several years past, suggested in his annual reports the extension of the City Act to Southwark.)

In the Minutes of Evidence, just published, Question 1192 reads as follows:—"Then are not they" (the L.C.C.) "the authority who would deal with that matter, and not the coroner?—It is their duty to set things right if they are wrong. I might tell you that in my inquiry in accordance with the Special Fire Act I always make a point of going into the means of escape, and from the time I have been coroner, in these 110 inquests I have held, I find that in thirty-four cases the juries have passed unanimous riders condemning the means of escape as being inadequate. In such cases I presume the London County Council would put things right."

Also—in Statement XXIX—Dr. Waldo mentions, among other beneficial results following the holding of fire inquests—the introduction of protective fire legislation, such as the London Building Acts (Amendment) Act, 1905—the direct outcome of the inquest held by him (Dr. Waldo) in 1902, on the fatal celluloid fire at Queen Victoria Street, City, at which nine girls and a youth lost their lives. On this, and other evidence, the Commission, in their Report, say (p. 219):—"It seems desirable that steps should be taken by the London County Council to deal more expeditiously with the more urgent cases of inadequate means of escape in buildings coming within the provisions of the London Building Acts."

Dr. Waldo, in his evidence, pointed out the frequency, as disclosed by his inquiries, of fires due to defective electrical installations and the need of a model set of regulations similar to those of the Institute of Electrical Engineers. The Commission in their Report (p. 218) in connection with this important subject, recommend that: "Electrical installations should be periodically inspected and tested in the case of all old buildings, and defective installations should, so far as practicable, be brought up to modern standards."

Dr. Waldo, in his evidence said it was of paramount importance to the public that the coroner—who was an independent and trusted judicial official—should have a voice—as was the case in the City of London—in the selection of the fires to be followed by public inquest by a jury. For instance, it would clearly be against the public interest for the London County, as building and fire authority, or even the Home Office, who are responsible for the inspection of factories and workshops, to decide alone as to which fires should, or should not, be followed by inquest, since such authorities might possibly be defaulters in certain cases, and, therefore interested in the suppression of public inquiry into the circumstances of particular fires. The best authorities to initiate a fire inquiry were the county or borough councils, the Home Secretary, and the coroner.

Dr. Waldo said, in the 110 fire inquests held by him, the average disbursement made worked out at £7 15s. 9d. for each inquest. The large majority of coroners were lawyers, and the machinery—including local courts, deputies, clerks, and trained officers—for the holding of fire inquiries was ready for use. On the other hand, the appointment of a new special department would be much more costly—a consideration of special importance now—and valuable time would be lost in the initiation and holding of the public inquiry by experts in building, engineering and fire extinction.

Personally, he (Dr. Waldo) was unable to see the need and extra expense involved in the employment of assessors. All that was necessary was the summoning and examination of expert witnesses on oath at the inquiry by the coroner, jurors, and others interested in the inquiry.

The general payment of coroners (save in the smaller boroughs and in a few franchises) by salary, instead of by fees, had removed one of the most serious objections that could have been formerly advanced against their appointment to investigate the causes of fires. Coroners ought to be paid a salary suitable to the position, and with the complete abolition of payment of fees there would then be no inducement for the holding of unnecessary inquests.

Dr. Waldo in his evidence said, on an average, 152 City fires had annually been reported to him under the Special Fire Inquests Act, during the past twenty years. All these fires had been

rivately investigated by him, but in only about 3 per cent.—or ive annually—of the non-fatal fires reported had they been ollowed by a public inquest.

He also stated that fires—including suspicious and incendiary ires—had increased in number since the war, and that, in 1921, as many as twenty-five fire inquests had been held before him by juries—of which number verdicts of arson—or incendiarism—were returned in nine cases—followed by conviction in the case of two men. Further, fifteen fire inquests were held during 1922.

The Report of the Commission (p. 98) says:—"The juries in the cases mentioned by Dr. Waldo recommended that all celluloid articles should be stamped "Dangerous" or "Inflammable," and we recommend—the sale of certain celluloid articles for personal wear or ornament—such as cuffs and collars and hair ornaments made partly or wholly of celluloid—and of celluloid toys should be prohibited unless such articles are plainly marked "Inflammable.'"

Dr. Waldo stated in his evidence that the following bodies were in favour of an extension of fire inquiry as carried out in the City of London during the past thirty-five years:—

(1) The Home Office Departmental Committee in their Report published in 1909.
(2) The Coroners' Society of England and Wales.
(3) The Associated Chamber of Commerce.
(4) The Association of Professional Fire Brigade Officers.
(5) The Borough of Portsmouth in one of their (General Powers) Bills.
(6) The Association of Municipal Corporations.
(7) The Insurance Institute of London.

The Select Committee on Fire Protection in their Report of 1867 recommended as follows:—"Your Committee, after giving due consideration to this subject, would prefer the police magistrate or coroner to the fire marshalls (employed in America), mainly because in the courts of these two officers they have a ready-made machinery, and they, such being the case, are averse to the recommendation of the creation of any new officers; and they would recommend the coroner to carry out the second stage of the inquiry (*i.e.*, the judicial inquiry) in preference to the police magistrate, because the coroner's court is a movable one, and he can constitute his court and conduct the inquiry in the immediate vicinity of the fire, and because till of late he was generally considered to have the power of inquiry into fires, and such power was exercised by some coroners. We further recommend that the investigation of fires by Procurators Fiscal in Scotland shall be public."

The Right of Public Criticism.

The Times correspondent in a message from Edinburgh, of the 11th inst., says:—

The trial was concluded before Lord Constable and a jury in Edinburgh to-day of the action at the instance of James Scott, ex-inspector, Galashiels Police Force, against William Sorley Brown, Galashiels, and John McQueen and Sons, printers, Galashiels, for £2,000 damages for alleged slander.

The plaintiff complained that an article in the *Border Standard* on 12th May last criticised the Town Council of Galashiels for having granted him a pension, and adversely commented on his conduct while he was a member of the police force.

In his charge to the jury, Lord Constable said the action was one of slander, brought by a police officer for damage to his reputation caused through the publication of a certain newspaper article. The defence to the article was two-fold: in the first place, that the article involved no slander at all, particularly because it commented upon a public matter and did not exceed the limits of fair and legitimate criticism upon a matter of public interest and importance; and in the second place that, if the article was slanderous, nevertheless it was justified, because the imputation therein contained was in fact true.

His Lordship pointed out that the law was that considerably greater latitude than was allowed in the discussion of private affairs was allowed to the public and the Press in the discussion of matters of public interest. The right of criticism of public matters was a very important constitutional principle, but, on the other hand, the criticism must not degenerate into licence. There was no doubt that the article in question dealt with a matter of public interest, a matter appropriate for public discussion, so long as that discussion did not exceed the limits of fair criticism. One might go a step farther and say that the salient features in connexion with the case showed that there was an urgent necessity for public discussion. It was not their province to pass judgment on anything but the case before them, but the case did touch upon the question of the right of public criticism.

The jury, after an hour's absence, returned a verdict unanimously in favour of the defendants.

Marriage by Purchase.

The Times has recently been giving interesting records of the occurrence, within comparatively recent times, of the sale of wives. We reproduced two instances last week, *ante*, p. 285. The following is the extract from its issue of 31st December, 1823, to which the first instance given last week referred:—

On Saturday last a man, named Feake, led his wife into Chipping Ongar market, in Essex, by a halter, and there exposed her for sale. She was soon purchased by a young man, a blacksmith, of High Ongar, at the price of 10s. Her person was by no means unpleasing, and she appeared to be about twenty-five years of age. The collector of the tolls actually demanded and received from the purchaser the customary charge of one penny, which is always paid upon live stock sold therein per head!—*Evening Paper.*—These stories reflect disgrace on the local magistracy. These sales being *contra bonos mores*, are contrary to law on that ground alone; and the public commission of an illegal act is, as every tyro knows, an indictable offence.

And the following instance is contributed by Mr. W. J. Piper, Derby, to *The Times* of the 11th inst.:—

Another instance, as proof that marriage by purchase was much commoner a century or more ago than might be supposed, is worth quoting. In Glover's "History of Derby," under the date 5th December, 1772, appears the following paragraph: "Thomas Bott, a farmer, sold his wife to a man who lived on Langley Common, for eighteenpence, and in order that the bargain might stand firm, they had writings drawn, and he delivered her up in Derby Market Place with a halter round her waist, in the presence of several persons who attended as witnesses."

The Rev. G. Montagu Benton, F.S.A. (Hon. Secretary of the Essex Archæological Society), Fingringhoe, Colchester, contributes the following to *The Times* of the 17th inst.:—The following notice, reprinted from the *Essex Chronicle* of January 2, 1824, appeared in a recent issue of that paper: "On Saturday last, a poor but honest and hard-working labourer brought to the market house at Ongar, encircled with a halter, his wife, who it was well known was more industrious in a certain way than virtuous, and exposed her for public sale; she was purchased by a son of Cyclops for 10s., which sum, with the market toll, he immediately paid, and received his frail bargain. After regaling themselves with some strong brown, they left the town amidst the shouts of the idle rabble who attended to witness the disgusting scene.—From a correspondent."

Rating Bill.

THE LAND UNION'S REPORT.

The Minister of Health recently submitted to the Land Union the draft Rating and Valuation Bill, with the request that they would furnish him with their observations on the proposals contained in the measure.

In the letter forwarding the draft the Minister asked that any suggestions which might be made by the Land Union should deal both with the general scheme of the proposed reform and also with the detailed provisions embodied in the various clauses of the draft Bill.

The observations of the Council have now, says *The Times*, been issued. In these they state that the main principles of the draft Bill may be summarised under the following heads :—

(1) The establishment of one gross value for rating and taxation.
(2) Deductions for repairs.
(3) The abolition of the parish as the rating unit.
(4) The intervention of the Revenue Officer in the preliminary preparation of valuation lists.
(5) The valuation of special properties.
(6) Centralisation of valuation.

The Council, after dealing in detail with the general scheme of the proposed revisions of the laws of rating and valuation, summarise their objections to the proposals under the Bill as follows :—

(1) The establishment of one gross value for rating and taxation. (*a*) It is opposed to economy. (*b*) It must lead to a large increase in the number of State officials. (*c*) That, however attractive in principle at first sight, the practical effect of one gross value would often be inequitable. To assess for income tax the rent received from a particular house may be fair, but it is unreasonable to levy rates on the same assessment when the occupier merely receives the same benefits as persons living in similar houses and paying lower rents. The tenant should only be rated on the true annual value apart from any exceptional income which the landlord may temporarily be receiving from the property. (*d*) If the preparation of the valuation list is handed over to a State department, the small occupier is placed at a great disadvantage as against his wealthier neighbour who can afford to employ experts to protect his interests.

(2) Deductions for repairs.—If one gross valuation is adopted for rating and taxation, the compiling of an equitable system for deductions for repairs is rendered impossible, particularly as regards rural properties which vary considerably in structural condition, &c.

The difference between assessments for income tax and for rates as regards repairs can be shown by the fact that whereas income tax is reclaimable where increased cost of maintenance has been incurred, there is no such reclaim allowed as regards rates. This fact strengthens the argument against the adoption in practice of one annual value for both purposes.

(3) The abolition of the parish as the rating unit.—Although the parish disappears from a geographical point of view, the claim that economy in administration will result is not justified. Further, the valuation must either be made by some central authority without the assistance of the local officials, or, on the other hand, the local officials must still be retained to supply local information. If these officials are abolished, then the local information will not be forthcoming, which will render it more difficult to complete an accurate valuation, whereas, on the other hand, if these officials are retained the argument based on economy falls to the ground.

(4) The intervention of the Revenue Officer in the preliminary preparation of the valuation lists.—Any system under which the valuation officer is also interested in the raising of revenue is bad in principle and does not make for public confidence.

(5) Special properties.—In any legislation dealing with valuations for revenue purposes, it is essential that the properties to be affected should be clearly defined.

(6) Centralization of valuation.—The proposal involves a further encroachment by State-paid officials on the functions of local authorities who have hitherto done excellent work voluntarily. It also hands over the valuation to officials who cannot have the detailed local knowledge.

In conclusion, the Council state that for the reasons given they are of opinion that a case has not been made out for the introduction of the Bill. They consider that apart from the principles in the Bill the present is an unsuitable time for introducing legislation of this nature—values are fluid and unsettled and may be profoundly affected by the housing policy. In other details, they object to the proposed extension of the principle of rating owners instead of occupiers. (Clause 8.) Proposals as to consolidation of rates and the provisions as to precepts must require further consideration, because these must depend on the final constitution of the rating bodies ; but the Council agree, however, that some amendment as to the collection of county rates and precepts for the same may be desirable. (Clauses 2 and 6.) In regard to procedure before the Assessment Committee, Clause 19 expressly authorizes the Revenue Officer (and him only) to be present and be heard and to examine any objector or any other person appearing as a witness—and, if he thinks fit, to call witnesses. Although there may be ground for this right, the same facilities and powers ought to be conferred on the objectors and respondents, including the local authorities.

THE AUCTIONEERS' AND ESTATE AGENTS' INSTITUTE'S REPORT.

The Institute has replied approving the principle of reform of rating administration, but making certain criticisms of the proposals.

The secretary of the Institute (Mr. E. H. Blake), in his letter to the Minister of Health, points out that it will be some years before the effects of the war and restrictive legislation will be overtaken, and submits that the Bill should contain a definite provision that present rentals are not to form the basis of a new valuation list.

With regard to a proposal for the employment of Government valuers, the letter states :—" The Institute views with apprehension the incursion of the Revenue Officer into the realm of local rating, by reason of the very wide powers with which it is proposed to invest these officers. Paid by the taxpayer, they are to be employed against him as a ratepayer, and, indeed, the Government is to be entitled to claim fees in regard to his employment in this special connexion. In view of his drastic powers of revision, objection, and appeal, there is some danger of the rating authorities treating their duties lightly."

The Institute further expresses doubt as to the wisdom of a proposal to set up a central valuation authority, which amounts to the handing over of the valuation of special properties to a newly-constituted Government Department to be paid by the ratepayers, with a blank cheque as to expenditure.

" It is respectfully submitted," the letter adds, " that the soundness of this proposal is open to question, and that there is no reason to believe that it is likely to lead to increased efficiency or to the public benefit. There would appear to be good reason to think that the proposals embodied in the Bill will lead to largely increased cost to the ratepayer and to the creation of a large number of additional officials."

Shopkeepers and Outside Display.

After George Davis, of Rowton-house, Newington Butts, on 15th inst., had been bound over, at Tower Bridge Court, on remand, for stealing a fur rug, worth 6s. 6d., from outside the shop of Stephen Charles Lawrence, 16, London-road, Southwark, Mr. Waddy remarked : " I have something to say about this case. This is one of the many cases in which an individual has been tempted to steal things exhibited for sale in front of a shop, upon the street pavement. The practice of using the pavement for such purpose is very common. I understand that shopkeepers justify it by contending that the soil of the pavement in front of their shops originally constituted a forecourt to their premises, and that the dedication of such soil by themselves, or their predecessors in title, was a limited dedication, subject to the rights of the dedicator to continue the use of the pavement as part of his shop premises. In most instances a momentary view of the premises is sufficient to show that the existing building line is the original building line, the premises never had a forecourt in fact, and, in consequence, that the contention has no sort of foundation either in fact or in law, and is supported only by the use of phrases of legal jargon which sound inspiring but have no application whatever to the actual circumstances. It is, of course, just remotely possible that an owner of the soil of a forecourt dedicated the forecourt as a highway, reserving to himself the right to continue the user of the soil for the display of goods which *ex hypothesi* he has antecedently displayed. The burden of proof as to such limitation upon the dedication lies upon the person who sets it up. I should be surprised if it could be established

once in a thousand cases. Unless there has been in old times such a user of the forecourt by the then owner, the law is well settled that a dedication of a highway subject to a right to commit a nuisance on the highway by obstruction is impossible. In fact, this practice is, generally speaking, nothing but an invasion on the rights of the public, equalled only, to my mind, by the still more flagrant and unjustifiable practice of blocking the streets with stalls and, with tongue in cheek, suggesting that the street is a public market for which there must have been a lost charter."

Other evidence against Davis showed that he had previously been convicted of stealing goods exhibited on the footway outside shops, and that the rug he took in the present instance was one of a pile which stood amongst other goods on the footway.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate 4%. **Next London Stock Exchange Settlement, Thursday, 24th January.**

	Middle Price. 16th Jan.	Interest Yield. £ s. d.
English Government Securities.		
Consols 2½%	55	4 10 6
War Loan 5% 1929-47	99 1/16	5 1 0
War Loan 4½% 1925-45	96½	4 13 6
War Loan 4% (Tax free) 1929-42	101½	3 19 0
War Loan 3½% 1st March 1928	96	3 12 6
Funding 4% Loan 1960-90	85	4 14 0
Victory 4% Bonds (available at par for Estate Duty)	90	4 9 0
Conversion 3½% Loan 1961 or after ..	75 1/16	4 13 0
Local Loans 3% 1912 or after	63⅛	4 15 0
India 5½% 15th January 1932	99½	5 10 6
India 4½% 1950-55	83	5 8 0
India 3½%	62½	5 12 0
India 3%	53⅜	5 12 0
Colonial Securities.		
British E. Africa 6% 1946-56	111	5 8 0
Jamaica 4½% 1941-71	93½	4 16 0
New South Wales 5% 1932-42	99½	5 0 6
New South Wales 4½% 1935-45	91	4 19 0
Queensland 4½% 1920-25	95½	4 14 0
S. Australia 3½% 1926-36	82	4 5 0
Victoria 5% 1932-42	100	5 0 0
New Zealand 4% 1929	94	4 5 0
Canada 3% 1938	80½	3 15 0
Cape of Good Hope 3½% 1929-47	77½	4 10 0
Corporation Stocks.		
Ldn. Cty. 2½% Con. Stk. after 1920 at option of Corpn.	52	4 16 0
Ldn. Cty. 3% Con. Stk. after 1920 at option of Corpn.	61	4 18 0
Birmingham 3% on or after 1947 at option of Corpn.	63½	4 14 0
Bristol 3½% 1925-65	75½	4 13 0
Cardiff 3½% 1935	85½	4 2 0
Glasgow 2½% 1925-40	73	3 8 6
Liverpool 3½% on or after 1942 at option of Corpn.	73	4 16 0
Manchester 3% on or after 1942	64	4 14 0
Newcastle 3½% irredeemable	74	4 15 0
Nottingham 3% irredeemable	64	4 14 0
Plymouth 3% 1920-60	69	4 7 0
Middlesex C.C. 3½% 1927-47	81xd.	4 6 6
English Railway Prior Charges.		
Gt. Western Rly. 4% Debenture	80½xd.	4 19 0
Gt. Western Rly. 5% Rent Charge ..	99xd.	5 1 0
Gt. Western Rly. 5% Preference	99	5 1 0
L. North Eastern Rly. 4% Debenture ..	78¾	5 1 6
L. North Eastern Rly. 4% Guaranteed ..	78½	5 2 0
L. North Eastern Rly. 4% 1st Preference	77½	5 3 0
L. Mid. & Scot. Rly. 4% Debenture ..	79	5 1 0
L. Mid. & Scot. Rly. 4% Guaranteed ..	79	5 1 0
L. Mid. & Scot. Rly. 4% Preference ..	77½	5 3 0
Southern Railway 4% Debenture ..	78	5 3 0
Southern Railway 5% Guaranteed ..	99½	5 0 6
Southern Railway 5% Preference ..	96	5 4 0

Companies.

Midland Bank Limited.

The audited balance sheet of the Midland Bank Limited, made up on 31st December, 1923, compares as follows with the position shown by the Bank on 31st December, 1922 :—

Liabilities.	Dec. 31, 1922. £	Dec. 31, 1923. £
Capital Paid up	10,860,852	10,860,852
Reserve Fund	10,860,852	10,860,852
Current, Deposit and other Accounts	354,406,336	360,267,723
Profit Balance, etc., and Dividend Payable	1,522,075	1,554,613
Acceptances and Engagements on account of Customers ..	25,862,341	36,552,607
	£403,512,456	£420,096,647
Assets.		
Coin, Bank and Currency Notes and Balances with the Bank of England	54,254,534	54,298,126
Balances with, and Cheques in course of Collection on other Banks in Great Britain and Ireland	13,548,935	14,959,762
Money at Call and Short Notice	17,187,013	16,187,565
Investments	55,454,831	41,890,168
Bills Discounted	46,066,631	58,418,748
Advances to Customers and other Accounts	182,307,521	188,737,732
Liabilities of Customers for Acceptances and Engagements	25,862,341	36,552,607
Bank Premises	5,270,960	5,492,249
Shares of the Belfast Banking Company, Ltd., and The Clydesdale Bank, Ltd.	3,259,690	3,259,690
Shares of The London City and Midland Executor and Trustee Company Ltd.	300,000	300,000
	£403,512,456	£420,096,647

The following statement, supplementing the above figures, shows the proportion of the Assets to Current, Deposit and other Accounts :—

	Dec. 31, 1922 %	Dec. 31, 1923 %
Coin, Bank and Currency Notes and Balances with the Bank of England ..	15·3	15·1
Balances with, and Cheques in course of Collection on other Banks in Great Britain and Ireland	3·8	4·1
Money at Call and Short Notice	4·8	4·5
Investments	15·6	11·6
Bills Discounted	13·0	16·2
Advances to Customers and other Accounts	51·4	52·3

Law Students' Journal.

Law Students' Debating Society.

At a meeting of the Society held at the Law Society's Hall on Tuesday, the 15th inst. (chairman, Mr. H. Shanly), the subject for debate was: "That the case of *Russian Commercial and Industrial Bank* v. *Comptoir D'Escompte de Mulhouse & Others*, 1923, 2 K.B. 630, was wrongly decided." Mr. J. H. G. Buller opened in the affirmative. Mr. R. P. C. Graham seconded in the affirmative. Mr. W. H. Betts opened in the negative. Mr. W. M. Pleadwell seconded in the negative. The following members also spoke: Messrs. P. Quass, I. R. Amphett, D. A. Mackey, P. W. M. Turner. The opener having replied, the motion was carried by one vote.

Sheffield and District Law Students' Society.

The sixth ordinary meeting of the Society was held in the Law Library, Bank Street, Sheffield, on Tuesday, the 8th inst., when Mr. Ernest Wilson was in the chair.

A debate was held, the subject being as follows:—

"A sells B an avowed copy of a famous picture of which he (A) possesses the original. By mistake the original is delivered to B instead of the copy, and B refuses to admit that any mistake has been made. While B is away A goes at midnight to his flat intending to enter and bring away the original, leaving the copy in its place. By mistake he breaks into the flat adjoining B's, and is discovered before he can get out again. He is charged with burglary. Is he guilty?"

Mr. A. N. Schofield, supported by Mr. R. H. Lambert, opened on behalf of the affirmative, and Mr. J. Elliott, supported by Mr. G. W. Casey, on behalf of the negative. On the debate being thrown open the following members also spoke: Messrs. Burney, Hiller, Irons, Kershaw, Priestly and Stone. After the Chairman had summed up, the question, on being put to the vote, was decided in the negative by eight votes to two.

The next meeting of the Society will be held on 22nd January, 1924.

Obituary.

Sir Richard Muir.

We regret to record that Sir Richard Muir, Senior Counsel for the Treasury at the Central Criminal Court died on Monday morning in his sixty-seventh year. He had been in his usual health up to the end of last week, when he was attacked by influenza, which developed into double pneumonia.

Richard David Muir, who was born in 1857, was a son of Mr. Richard Muir, of Greenock. Educated at King's College, London, he was in early life a journalist engaged on *The Times* staff in the Press Gallery of the House of Commons. Called to the Bar by the Middle Temple in 1884, he entered the chambers of Mr. (afterwards Sir) Forrest Fulton, a leading member of the Criminal Bar, who later became Recorder of London. Abandoning journalism for the law, Muir devoted himself to practice as a barrister. He joined the South-Eastern Circuit and also attended London Sessions and the Central Criminal Court, where his talents were speedily recognized. His practice grew, and he was in due course appointed Counsel for the Treasury at the London Sessions and later one of the Treasury Counsel at the Central Criminal Court. He was appointed Recorder of Colchester in 1911, and received the honour of knighthood in 1918. He was a Bencher of the Middle Temple, and recently filled the office of Treasurer of his Inn.

For many years past, says *The Times*, Sir Richard Muir was an outstanding figure in practically all the great trials held at the Central Criminal Court, and won fame by his masterly cross-examination in the Crippen case. Another case in which he appeared and which created great public interest at the time was that of Stinie Morrison. A master of criminal law and practice, he brought, with unremitting patience, all the resources of an acute and forcible mind to bear on the solution of the particular problem before him. His grasp of legal principles, his cold logic, his application to detail, and his great powers as a cross-examiner all combined to render him a redoubtable opponent. His characteristics as an advocate were well described by Mr. Justice Greer at the Central Criminal Court on Monday in his appreciation of the admirable services rendered by Sir Richard Muir to the administration of justice:—"He was zealous in his duties, industrious in his preparation for those duties, and lucid to a degree that it is impossible to overpraise in the presentment of his cases for trial. Although zealous in his duties, he was never guilty of being in the least unfair towards those against whom it was his duty on behalf of the Crown to present a case."

It may be added that Sir Richard Muir's knowledge of law and procedure was often invoked by the Home Office and other Departments of the State, and he was a member of many Commissions of Inquiry into improvements in the administration of the criminal law of the country. He was a member of the committee, of which Mr. Justice Avory was chairman, for the framing of the Indictments Act, 1915. He also sat on the committee appointed by the Board of Trade in 1918, under the presidency of Lord Wrenbury, to inquire what amendments should be made in the Companies Acts, 1908-17, "having regard to the circumstances arising out of the war."

Sir Richard Muir married in 1889 Mary Beatrice, second daughter of the late Mr. William Leycester, who was chief of *The Times* Parliamentary Corps in the House of Commons, by whom he had one son and one daughter. His son, who was a member of the Bar, was an officer in the Army during the war, and died on active service.

During the hearing of a case in the Court of Criminal Appeal on Monday, the Lord Chief Justice said:—"I see that Sir Richard Muir appeared for the prosecution in this case at the Central Criminal Court. All those who had the good fortune to know Sir Richard Muir deplore his loss, and the practice of the law—especially the criminal law—in this country is the poorer through being deprived of his excellent accuracy, industry, patience, and knowedge."

Legal News.

Appointments.

The Hon. Sir WILLIAM FINLAY, K.B.E., K.C., and his Honour Judge PARFITT, K.C., have been appointed to be Commissioners of Assize to go the Midland and South Wales Circuits respectively.

Mr. ALICK JAMES TASSELL has been appointed to be a Metropolitan Police Magistrate, in the place of Mr. E. C. Tennyson d'Eyncourt, who has resigned. Mr. Tennyson d'Eyncourt, who was called to the Bar in 1881, was appointed a Metropolitan Police Magistrate in 1897, and sat at Marylebone from 1916-1922, when he was appointed to Marlborough-street. Mr. Tassell has been Stipendiary Magistrate for Chatham and Sheerness since 1902 and was called to the Bar in 1890. He is also deputy-chairman East Kent Quarter Sessions.

The Council of Legal Education announce the following appointments to examinerships at the Inns of Court:—

Mr. GILBERT H. J. HURST, M.A., LL.M., formerly Fellow of King's College, Cambridge, Barrister-at-Law, of Lincoln's Inn, in Roman Law and Constitutional Law (English and Colonial) and Legal History.

Dr. P. H. WINFIELD, B.A., LL.B., LL.D., Fellow of St. John's College, Cambridge, Barrister-at-Law, of the Inner Temple, Common Law, Criminal Law, Evidence and Procedure (Civil and Criminal).

Dissolutions.

THOMAS JOHN WOOTTON and ARTHUR ALEXANDER PITCAIRN, solicitors, 56, Victoria-street, Westminster, S.W.1 (Wootton and Son), the 1st day of January, 1924. The said Arthur Alexander Pitcairn will continue to carry on the said business in partnership with Mr. Frederick Walton Leaf, under the style or firm of Wootton, Leaf & Pitcairn, at above address.

FREDERICK GEORGE CARNAC MORRIS, ARTHUR CHARLES THOMAS VEASEY, WILLIAM ARTHUR WARD-JONES and AUBREY EKINS, solicitors, Ellerman House, 19-21, Moorgate, London, E.C.2 (Morris, Veasey & Co.), the 31st day of December, 1923, so far as concerns the said Frederick George Carnac Morris.

[*Gazette*, 11th January.

General.

Mr. B. W. Adkin is the new Principal of the College of Estate Management, Lincoln's Inn-fields, in succession to Mr. Richard Parry.

It was announced at Armstrong College, Newcastle, on Monday, that Mr. J. H. Rennoldson, president of the Newcastle Law Society, had given £500 to endow two scholarships for law students.

Mr. Chao-Hsin Chu, Chargé d'Affaires at the Chinese Legation in London, will speak at a meeting in the Caxton Hall at 8 p.m. on Thursday, organized by the Westminster branch of the League of Nations Union. Admission is free and without ticket.

After nearly a quarter of a century's service as Town Clerk of Mansfield, Mr. John Harrop White has resigned to accept the office of Mayor, and the Town Council have appointed Mr. John Schofield Robinson, the Deputy Town Clerk of Rochdale, to fill the vacancy at a salary of £1,000 per annum.

Dugald Bryde, blacksmith, of Union-street, Clydebank, who figured as the successful defendant in the increase of rent test case (*Kerr* v. *Bryde*) which went to the House of Lords, was evicted from his house on Wednesday. A crowd gathered while Sheriff officers removed the furniture to the street and sealed the door.

Mr. William Little, Windermere, writing to *The Times* (15th inst.) says: A bundle of old rent receipts before me are duly impressed with the duty payable at the time. From 1785 they carry a 2d. stamp until 1803, when it rises to 4d.; in 1810 to 8d., and in 1815 to 1s., at which it remains for twenty years, showing the heavy burden of taxation entailed by the Napoleonic wars.

The Hull magistrates on the 10th inst., dismissed a summons issued by the Corporation under the Shop Hours Act against Owst Brothers, confectioners and tobacconists, for supplying cigarettes after 8 p.m. The cigarettes were obtained from an automatic machine. The prosecution contended that a personal service was rendered by the shop assistant in providing the requisite change. The Bench regarded the change as an act of courtesy.

The Central Poor Law Conference will take place at Guildhall on 26th and 27th February. Mr. J. J. Simpson (Bristol) will preside, and papers on hospital administration will be read by Mr. G. W. Coster (Liverpool) and on vagrancy in its present form by the Rev. W. Mahon (Wakefield). Delegates have already been appointed representative of all the principal Poor Law Unions of England and Wales. Lord Richard Cavendish is chairman of the organizing committee.

The Judicial Committee of the Privy Council will resume its sittings on the 22nd inst. for the hearing of a list containing twenty-eight appeals, compared with twenty-two appeals in the list for the corresponding period of last year. To the present list India contributes nineteen appeals, Canada three, Australia two, Malta two, and St. Lucia and Gibraltar one each. The most important appeal in the list is one from the High Court of Australia, arising out of a dispute about the allocation of profits between different classes of wool-owners consequent upon the purchase of the Australian clip by the Government of Australia for war purposes; more than £1,000,000 is said to be involved in this case. One of the Indian cases raises the curious question whether a leper is disqualified from inheriting under the Hindu law. Nine judgments await delivery.

Mr. Joseph Ansell, of The Oaklands, Wylde Green, Sutton Coldfield, solicitor, for a time Coroner for North Warwickshire and for Birmingham, and Alderman for Sutton Coldfield, Chairman of the Birmingham Branch of the Land Union, and for a number of years Legal Adviser of the Birmingham Licensed Victuallers' Association, and President of the Aston Villa Football Club, who died on 12th October, aged eighty-two, son of one of the founders of Ansell and Sons, brewers and maltsters, has left a fortune of £111,451, with net personalty £77,136. He gives £100 to Birmingham Dental Hospital, £100 to the Birmingham and Midland Hospital for Nervous Diseases, £100 to the Harborne Industrial School, £100 to Emanuel Church, Wylde Green, £100 each to Mr. Turnell, Mr. Hallam, and Mr. Woodhouse, members of his staff, £50 to Mrs. Noon, cook.

Special provisions against pollution of the River Thames are contained in the Thames Conservancy Bill which will be introduced into Parliament this Session. The Bill seeks to impose a penalty not exceeding £100 and a daily penalty not exceeding £50 upon any person who opens into the river or into any tributary a sewer, drainpipe, or channel through which any offensive or injurious matter is likely to flow. Under the procedure set forth in the Bill the Conservators will be required to give three months' notice to offenders to discontinue the pollution, and the person receiving such notice may demand arbitration as to the length of the period allowed for the discontinuance. When a conviction has been obtained, the Conservators may, with the consent of the court, stop and keep stopped the outlet of the drain and may recover the expenses from the offender. Powers will also be given to the Conservators, under this Bill, to remove or destroy sunken and stranded vessels and other obstructions after forty-eight hours' notice has been given to the owners, and to recover the cost from owners. The Bill further prohibits the throwing of ballast, stones, mud, ashes, refuse, oil and tar into the river, and provides a maximum penalty for such offences of £50, with a daily penalty not exceeding £10.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

Date.	Emergency Rota.	Appeal Court No. 1.	Mr. Justice Eve.	Mr. Justice Bennett.
Monday Jan. 21	Mr. Jolly	Mr. Bloxam	Mr. More	Mr. Jolly
Tuesday 22	More	Hicks Beach	Jolly	More
Wednesday.... 23	Synge	Jolly	More	Jolly
Thursday 24	Ritchie	More	Jolly	More
Friday 25	Bloxam	Synge	More	Jolly
Saturday..... 26	Hicks Beach	Ritchie	Jolly	More

Date.	Mr. Justice Astbury.	P. O. Lawrence.	Mr. Justice Russell.	Mr. Justice Tomlin.
Monday Jan. 21	Mr. Bloxam	Mr. Hicks Beach	Mr. Ritchie	Mr. Synge
Tuesday 22	Hicks Beach	Bloxam	Synge	Ritchie
Wednesday.... 23	Bloxam	Hicks Beach	Ritchie	Synge
Thursday 24	Hicks Beach	Bloxam	Synge	Ritchie
Friday 25	Bloxam	Hicks Beach	Ritchie	Synge
Saturday..... 26	Hicks Beach	Bloxam	Synge	Ritchie

Crown Office, House of Lords,
10th January, 1924.

Days and places fixed for holding the Winter Assizes, 1924:—

SOUTH EASTERN CIRCUIT.

(First Portion).
Mr. Justice Horridge.

Saturday, 12th January, at Huntingdon.
Tuesday, 15th January, at Cambridge.
Saturday, 19th January, at Ipswich.
Thursday, 24th January, at Norwich.
Thursday, 31st January, at Chelmsford.

NORTH-EASTERN CIRCUIT.

The Commission days for the Winter Assizes, 1924, on the North-Eastern Circuit have been fixed as follows:—

Newcastle	26th February
Durham	4th March
York	11th „
Leeds	17th „

Mr. Justice Roche will go this circuit.

Winding-up Notices.

JOINT STOCK COMPANIES.

LIMITED IN CHANCERY.

CREDITORS MUST SEND IN THEIR CLAIMS TO THE LIQUIDATOR AS NAMED ON OR BEFORE THE DATE MENTIONED.

London Gazette.—FRIDAY, January 11.

CRESSNELLS LTD. Feb. 21. H. Wingfield, 67, Watling-st., E.C.4.

BIRMINGHAM ENGINEERING CO. LTD. Feb. 29. Arthur E. Skidmore, 55, Newhall-st., Birmingham.

CLAYTON ATHLETIC CLUB CO. LTD. Jan. 16. C. R. W. Menzies, 2, Mount-st., Manchester.

FOLKESTONE MOTORS LTD. Feb. 29. Ernest A. Baker, 9, Limes-rd., Folkestone.

E. LESLIE JONES LTD. Jan. 31. Algernon O. Miles, 28, King-st., Cheapside, E.C.

BITURIA STEAMSHIP CO. LTD. Jan. 31. Edmund Roberts, 317, Royal Liver-bldgs., Liverpool.

London Gazette.—TUESDAY, January 15.

ALEXANDRIA TEMPERANCE HOTEL CO. LTD. Feb. 27. John A. Chadwick, 12, St. Mary's-st., Whitchurch, Salop.

BIRMINGHAM SPECIALITIES LTD. Feb. 23. Percy H. Stone, 47, Temple-row, Birmingham.

W. COLLINGTON (BUILDERS) LTD. Feb. 15. Thomas F. Birch, Court Chambers, Friar-lane, Leicester.

STORY & TRIGGS LTD. Feb. 20. Clement M. Champness, 103, Cannon-st., E.C.4.

Resolutions for Winding-up Voluntarily.

London Gazette.—TUESDAY, January 8.

James Wrigley & Son Ltd.
Zog Ltd.
Nathan Hope & Son Ltd.
New Peterborough Brick Co. Ltd.
W. H. Copeland & Sons Ltd.
Matthews Wrightson & Co. Ltd.
The Retford & Gainsborough Times Co. Ltd.
Peerless Flash Lamp Co. Ltd.
Simmonds Brothers Ltd.
Pryce Williams & Eames Ltd.
Hinchcliffe (Leeds) Ltd.
G. Welford & Son Ltd.
Hamel & Horley (Manchester) Ltd
Shorthose Lee & Co. Ltd.
Yukon Engineering Co. Ltd.
George Yaxley (Norwich) Ltd.
Bright Buildings Café Ltd.
Saxon Brick Co. Ltd.
The Combe Martin Jam and Preserve Co. Ltd.
Powell's Mart Ltd.
Stage Attractions Ltd.
New Attractions Ltd.
Hamilton & Shelley Ltd.
The Lilleshall Coal Distillation Co. Ltd.
The Ouse Humber & Trent River Craft Mutual Insurance Society Ltd.
Cheran Jeloh Coconut Estate Ltd.
The South Australian Land Mortgage & Agency Co. Ltd.

London Gazette.—FRIDAY, January 11.

Sharples (Pictures) Ltd.
Tominli Options Co. Ltd.
Coppull Building Estates Ltd.
Suffolk County Rifle Association
Sheringham Daylight Foreign Ltd.
Johnson & Langley Ltd.
Dolan & Co. Ltd.
The Sulla Colliery Co. Ltd.
Tobogaboo Co. Ltd.
The Stockport Lamp Co. Ltd.
The Hertford Engineering Co. Ltd.
County of Dorset Electric Supply Co. Ltd.
The Yost Typewriter Co. Ltd.
Hudson Trustees Ltd.
Phillips, Tottman & Co. Ltd.
Crowhurst Fruit and Market Garden Co. Ltd.
Holdway Stafford & Williams Ltd.
Electric Auto Supplies Ltd.
Ashton Kinder & Co. Ltd.
Arthur Chambers Ltd.
Harry Adler & Co. Ltd.
M.A.P. Commercial Corporation Ltd.
Loverne Studios Ltd.
Drogueris Centrale D'Orient Ltd.
W. J. Parker Ltd.
C. E. Muller & Co. Ltd.
W. Lang & Co. Ltd.
Heap's Davits Ltd.
The Cie de la Machine a Ecrire Yost Ltd.
Brin & Segal Ltd.

London Gazette.—TUESDAY, January 15.

Edwards, White & Co. Ltd.
Jacobs & Kemp Ltd.
Carrosserie Latymer Ltd.
Chalk Hill Nurseries Ltd.
The Garw Valley Roller Skating and Amusements Co. Ltd.
Flax Cultivation Ltd.
Economic Rubber Machines Ltd.
The West of England Ship Store Co. Ltd.
George Casting and Metal Co. Ltd.
G. T. Shipping Co. Ltd.
Alexandria Temperance Hotel Co. Ltd.
Bracers Ltd.
Charles S. Good & Co. Ltd.
Story & Triggs Ltd.

Bankruptcy Notices.

RECEIVING ORDERS.

London Gazette.—FRIDAY, January 11.

ASHFORTH, ADA, and REYNOLDS, LILY, Bradford, Drapers and Milliners. Bradford. Pet. Jan. 9. Ord. Jan. 9.

BRADLEY, WALTER G., Worcester, Wholesale Confectioner. Worcester. Pet. Jan. 9. Ord. Jan. 9.

BUTLER, PERCIVAL, Great Yarmouth, Electrical Engineer. Great Yarmouth. Pet. Jan. 8. Ord. Jan. 8.

COLLINS, DAWSON, Haymarket. Commercial Clerk. High Court. Pet. Nov. 5. Ord. Jan. 8.

COWAN, L., Forest Gate, Draper. High Court. Pet. Nov. 16. Ord. Jan. 8.

CULSHAW, JAMES, Tarleton, Lancs, Oil Merchant. Liverpool. Pet. Jan 7. Ord. Jan. 7.

DA COSTA, H., Oxford-st., Turf Commission Agent. High Court. Pet. Oct. 24. Ord. Jan. 7.

EDWARDS, THOMAS, Carmarthen, Travelling Draper. Carmarthen. Pet. Jan. 9. Ord. Jan. 9.

ELLIS, GEORGE, Wetherby, Farmer. Harrogate. Pet. Jan. 8. Ord. Jan. 9.

ENGINEERING SUPPLIES CO., Newcastle-upon-Tyne. Newcastle-upon-Tyne. Pet. Dec. 20. Ord. Jan. 8.

FARR, HENRY, Luton, Straw Hat Manufacturer. Luton. Pet. Dec. 20. Ord. Jan. 8.

FREEMAN, HERBERT E., Clapton, Registered Dentist. High Court. Pet. Jan. 8. Ord. Jan. 8.

GILLETT, JOSEPH O., Maidenhead. Windsor. Pet. Dec. 14. Ord. Jan. 8.

HEATH, HAROLD A., Duke-st., London Bridge, Provision Importer. High Court. Pet. Jan. 7. Ord. Jan. 7.

HUDSON, HAROLD, Burley-in-Wharfedale, General Carrier. Leeds. Pet. Jan. 4. Ord. Jan. 4.

HUGHES, MORRIS E., Llanfwrog, Anglesey, Farmer. Bangor. Pet. Jan. 7. Ord. Jan. 7.

KELLY, JAMES, Tamworth, Builder. Birmingham. Pet. Jan. 8. Ord. Jan. 8.

LLOYD, ALBERT W., Leytonstone, Leather Factor. High Court. Pet. Jan. 8. Ord. Jan. 8.

LLOYD, EDWARD, Beddgelert, Carnarvon, Motor Hirer. Portmadoc. Pet. Jan. 8. Ord. Jan. 8.

MADGE, LEONARD J., Torpoint, Painter. Plymouth. Pet. Jan. 7. Ord. Jan. 7.

MCDONALD, PETER E., Edgeley, Stockport, Wheelwright. Stockport. Pet. Jan. 9. Ord. Jan. 9.

MORLEY, GEORGE A., Woolwich, Electrician. Greenwich. Pet. Jan. 5. Ord. Jan. 5.

MORRIS, WATKIN, Rhondda, Collier. Pontypridd. Pet. Jan. 7. Ord. Jan. 7.

OLDFIELD, HARRY, Hyde, Plumber. Ashton-under-Lyne. Pet. Dec. 21. Ord. Jan. 7.

OPENSHAW, CHARLES, Manchester, Baker. Manchester. Pet. Jan. 7. Ord. Jan. 7.

PARKER, TOM H., Manchester, Cotton Cloth Merchant. Manchester. Pet. Jan. 8. Ord. Jan. 8.

PEAKE, WILLIAM H., Abergavenny. Tredegar. Pet. Jan. 3. Ord. Jan. 3.

PENRICE, THOMAS H., Allonby, nr. Maryport, Cumberland, Joiner. Carlisle. Pet. Jan. 8. Ord. Jan. 8.

PYNEGAR, HENRY, Dowgate-hill, Merchant. High Court. Pet. Jan. 7. Ord. Jan. 7.

ROGERS, JOHN R., Caerwys, Flint, Licensed Victualler. Chester. Pet. Jan. 7. Ord. Jan. 7.

SHUFFLEBOTHAM, FRANK, Newcastle-under-Lyme. Hanley. Pet. Dec. 20. Ord. Jan. 7.

SLEIGHTHOLME, WILLIAM H., Grayingham, Lincoln, Taxi Proprietor. Lincoln. Pet. Jan. 9. Ord. Jan. 9.

THOMAS, ROBERT, Bala, Merioneth. Wrexham. Pet. Jan. 7. Ord. Jan. 7.

THOMSON, JOHN B. M., Camberley. Guildford. Pet. July 25. Ord. Jan. 8.

VEERMAN, GEORGE L., Harborne, Birmingham, Schoolmaster. Birmingham. Pet. Jan. 7. Ord. Jan. 7.

WALLMAN, EDWARD, Cambridge, Taxi-cab Driver. Cambridge. Pet. Jan. 7. Ord. Jan. 7.

WARSHAWSKI, HAYMAN, Berwick-st., St. James, Ladies' Tailor. High Court. Pet. Jan. 7. Ord. Jan. 7.

WATTON, CYRIL F. W., Barnt Green, Worcester, Commercial Clerk. Birmingham. Pet. Jan. 7. Ord. Jan. 7.

WILEY, THOMAS G. H., Stanningley, Yorks, Electrical Engineer. Bradford. Pet. Jan. 7. Ord. Jan. 7.

WILKINSON, JAMES, Kingston-upon-Hull, Wholesale and Retail Fruiterer. Kingston-upon-Hull. Pet. Jan. 7. Ord. Jan. 7.

WRIGHT, WALTER H., Cardiff, Mercantile Clerk. Cardiff. Pet. Dec. 20. Ord. Jan. 4.

London Gazette.—TUESDAY, January 15.

BAGNALL, DANIEL, Tipton, Plumbing Contractor. Walsall. Pet. Jan. 10. Ord. Jan. 10.

BARNABY, WILLIAM A., Kingston-upon-Hull, Grocer. Kingston-upon-Hull. Pet. Jan. 10. Ord. Jan. 10.

BAZALGETTE, SYDNEY E., Stanmore, Herts. High Court. Pet. Nov. 29. Ord. Jan. 8.

BLACKHURST, JOHN W., Liverpool, Farmer. Liverpool. Pet. Jan. 11. Ord. Jan. 11.

BRARLEY, FANNY, Burnley, Milliner. Burnley. Pet. Dec. 15. Ord. Jan. 10.

COATEN, MARK E., Gosberton, Lincs., Commission Agent. Peterborough. Pet. Jan. 11. Ord. Jan. 11.

CODD, MARJORIE A., Lee-on-the-Solent. Portsmouth. Pet. Jan. 10. Ord. Jan. 10.

COLLETT, CHARLES W., Axbridge, Carpenter. Wells. Pet. Jan. 12. Ord. Jan. 12.

DARE, HUBERT, Porthcawl, Fruiterer. Cardiff. Pet. Jan. 9. Ord. Jan. 9.

DURRANT, WALTER B., Great Grimsby, Master of a Steam Trawler. Great Grimsby. Pet. Jan. 10. Ord. Jan. 10.

EGGLESTON, HERBERT, Great Grimsby, Milk Dealer. Great Grimsby. Pet. Jan. 11. Ord. Jan. 11.

FINE, ETTIE, Bristol, Tobacco Dealer. Bristol. Pet. Jan. 1. Ord. Jan. 11.

GAWTHORNE, PETER, Cambridge-terrace, Actor. High Court. Pet. March 26. Ord. Jan. 9.

GIGGS, ANNIE L., Streatham. Wandsworth. Pet. March 17. Ord. Jan. 10.

HEDGES, FREDERICK, Fareham, Builder. Portsmouth. Pet. Jan. 11. Ord. Jan. 11.

HETHERINGTON, ALFRED, Thorne, Yorks, Grocer. Sheffield. Pet. Jan. 11. Ord. Jan. 11.

HISCOTT, BERNARD C., Twickenham, Garage Proprietor. Brentford. Pet. Jan. 9. Ord. Jan. 9.

HODSON, FRANK W. S., Chingford, Garage Proprietor, Edmonton. Pet. Jan. 11. Ord. Jan. 11.

HOULDER, HOWARD, St. Helen's-place, Shipbroker. High Court. Pet. Jan. 10. Ord. Jan. 10.

HUNTER, GEORGE, Skerne, Yorks, Farmer. Kingston-upon-Hull. Pet. Jan. 10. Ord. Jan. 10.

JONES, MABEL T., Kingston, Surrey. Kingston. Pet. Dec. 12. Ord. Jan. 10.

JONES, EDWARD W., Warrington, Agricultural Merchant Warrington. Pet. Jan. 11. Ord. Jan. 11.

KERSHALL, WILLIAM L., Lower Thames-st., Hardware Merchant. High Court. Pet. Dec. 8. Ord. Jan. 9.

KINDER, EDWARD, Stockport, Joiner. Stockport. Pet. Jan. 10. Ord. Jan. 11.

LEVY, MARY A. B., Ipswich, Draper. Ipswich. Pet. Jan. 11. Ord. Jan. 11.

LOWIS, FREDERICK, South Cockerington, Lincs, Farmer. Great Grimsby. Pet. Jan. 10. Ord. Jan. 10.

M.A.P. PIANOFORTE CO., Islington, Pianoforte Manufacturers. High Court. Pet. Dec. 11. Ord. Jan. 9.

MARIOTTI, JEANNE, Maddox-st., W.1, Dressmaker. High Court. Pet. Jan. 9. Ord. Jan. 9.

MARKS, R. L., Commercial-rd., Silk and Cloth Merchant High Court. Pet. Dec. 14. Ord. Jan. 10.

MARTIN, JAMES H., Birmingham, Motor Engineer. Birmingham. Pet. Jan. 10. Ord. Jan. 10.

MITCHELL, JOHN E., Nelson, Motor Engineer. Burnley. Pet. Jan. 11. Ord. Jan. 11.

MITCHELL, THOMAS F., Workington, Gentlemen's Outfitter. Cockermouth. Pet. Jan. 11. Ord. Jan. 11.

MOSDEN, F. C., Victoria-st., Engineer. High Court. Pet. Jan. 3. Ord. Jan. 7.

PARLETT, FRED, Leinster-gardens. High Court. Pet. Nov. 9. Ord. Jan. 10.

PEACOCK, CHRISTOPHER, Muker, Richmond, Yorks, Farmer. Northallerton. Pet. Jan. 10. Ord. Jan. 10.

PITT, HENRY, Sutherland-avenue. High Court. Pet. Nov. 8. Ord. Jan. 10.

POYNTON, MAJOR ALLEN S., Park-lane. High Court. Pet. Nov. 5. Ord. Jan. 10.

RHODES, HERBERT, Keswick, Cinema Operator. Cockermouth. Pet. Jan. 10. Ord. Jan. 10.

ROSE, D., & Co., Osborn-st., E., Electrical Engineers. High Court. Pet. Dec. 12. Ord. Jan. 10.

SERJEANT, ALFRED E., Brixton-rd., Commercial Traveller. Poole. Pet. Jan. 12. Ord. Jan. 12.

SHAPIRO, M., Walthamstow, Grocer. High Court. Pet. Dec. 11. Ord. Jan. 10.

SHARP, JAMES B., Southport. Liverpool. Pet. Dec. 28. Ord. Jan. 10.

SULLINGS, HENRY B., Ipswich, Cinema Proprietor. Ipswich. Pet. Dec. 19. Ord. Jan. 9.

TAYLOR, JOHN, Ince-in-Makerfield, Grocer. Wigan. Pet. Jan. 11. Ord. Jan. 11.

THOMAS, WILLIAM G., Maesclochog, Grocer. Haverfordwest. Pet. Jan. 11. Ord. Jan. 11.

TILL, PERCY, Deptford, Wheelwright. Greenwich. Pet. Jan. 11. Ord. Jan. 11.

TILLSON, HARRIET, Wells-next-the-Sea, School Teacher. Norwich. Pet. Jan. 12. Ord. Jan. 12.

WHITELEY, DAVID, and EVERSON, HARRY, Leeds, Manufacturing Confectioners. Leeds. Pet. Jan. 10. Ord. Jan. 10.

WILLIAMS, WILLIAM, Tremadoc, Grocer. Portmadoc. Pet. Jan. 10. Ord. Jan. 10.

WILLMER, ALBERT C., Cross-st., Somerset, Drug Store Proprietor. Wells. Pet. Jan. 11. Ord. Jan. 11.

WYLES, CORNELIUS, Faversham, Tailor. Canterbury. Pet. Jan. 10. Ord. Jan. 10.